WATERWAY USER FEES

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BEFORE THE
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OF THE
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ENVIRONMENT AND PUBLIC WORKS
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WATERWAY USER FEES

WEDNESDAY, FEBRUARY 10, 1982

U.S. SENATE,
SUBCOMMITTEE ON WATER RESOURCES,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 4200, Dirksen Senate Office Building, Hon. James Abdnor (chairman of the subcommittee) presiding.

Present: Senators Abdnor, Domenici, Gorton, Randolph, Bentsen, and Baucus.

OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator **ABDNOR**. We will call the subcommittee to order.

I want to say good morning and welcome you all to our hearing. Particularly I want to give a warm welcome to our witnesses.

Today's hearing will focus on the Department of Transportation's study of the impact of waterway user fees. This study, which we refer to as the section 205 study, analyzed the impacts of cost-recovery user charges which the administration proposes to impose on commercial barge traffic.

Secretary Lewis will be our initial witness, followed by Dr. Alice Rivlin, Director of the Congressional Budget Office. We are pleased to have both of you here.

President Reagan's effort to revitalize our economy is a necessary, although complex and difficult, task. While there is much disagreement and debate over the best means to achieve economic recovery, the importance of the goal is unquestionable.

Responsible control of the Federal budget must play a role in our national economic recovery. And, if we are to succeed in bringing the budget under control, no Federal program can be immune from scrutiny. Therefore, I think we must enter into the discussion of waterway user charges with an open mind.

Offsetting my concern for a balanced budget, however, are my concerns over the potential impacts upon shippers, the consuming public, our competitiveness in world markets, and especially upon hard-pressed American farmers. And, let me tell you, the agricultural economy is in mighty tough shape right now.

We must not tamper with our Nation's waterway systems until we understand fully the impact of any change. The section 205 study will serve as a valuable resource to this committee. I have not had an opportunity to review it in detail. It will not answer every question, but hopefully it will help us to understand what the impacts of waterway user fees are likely to be. If we do decide to impose new user charges, the study will provide us data to design legislation to minimize the adverse impacts.

Principally, I have three areas of concern:

First, as I said, we must design any legislation to minimize the most severe impacts;

Second, any costs allocated to commercial navigation must be as realistic as possible. Commercial shippers should not have to pay for portions of projects which were designed for other uses; and

Third, we must maximize the efficient use of the existing waterway system, and such techniques as congestion fees may deserve consideration toward that end.

In addition, I am concerned about the possibility of creating an unfair competitive disadvantage to waterways operators, and we have asked both witnesses to address the issue of Federal subsidies to the railroads versus the waterways.

Finally, I want to assure the many interested individuals and groups that the subcommittee will hold additional hearings at which you will have a full opportunity to comment on the 205 study as well as other aspects of this issue. You can be sure that I share your fears over the potential negative impacts of full cost-recovery waterway user fees and that I will be very reluctant to act until such time as those impacts are understood. Make no mistake, however, the budgetary pressures are great and we must address this issue fully and forthrightly.

With that, I would like to call on the other members of the committee for opening statements.

The ranking minority member of the subcommittee, Senator Moynihan, is testifying at the Foreign Relations Committee, and it just so happens, he has an amendment pending on the floor. So he is going to be a few minutes late. He hopes to get here before the conclusion of your testimony, Mr. Secretary. We will put his statement in the record.

Senator Stafford, who is chairman of the Environment and Public Works Committee, is attending a meeting of the Rules Committee this morning. He and our other distinguished member of many years, Senator Randolph, are at that meeting.

They all want to be here. Senator Randolph has a written statement that he wants inserted in the record and a letter from Senator Stennis for the record.

Without objection, I will ask that they be made a part of the permanent record.

[The material referred to follows:]

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Mr. **Randolph**. The Congress is facing a serious dilemma as it seeks to provide for the continued viability of the transportation system of this country. Several elements of this network are facing funding problems both at the Federal and State level. Those responsible for the upkeep are having difficulty maintaining the goal of an efficient system.

The inland waterways are such a element. While we have done much to modernize the system of locks and dams on our major river systems, the job is not done. Several facilities serving the Ohio River and its tributaries are dramatically in need of modernization. Gallapolis on the Ohio River is a bottleneck to the efficient movement of goods both up and down river. Many important commodities, not the least of which is coal, moved through the existing obsolete facility. In 1976 one-fifth of the Ohio River systems 200.8 million tons of waterborne traffic passed through Gallapolis. About 19 percent of the Ohio River systems coal and coke movements lock through this facility.

Of no less importance is the ability of the Monongahela River to carry traffic through its facilities. Locks 7 and 8 must be rehabilitated if this important waterway is to remain open to the efficient movement of commodities to and from West Virginia.

Without adequate funds the Corps of Engineers will be unable to maintain these waterways and their facilities, and thus, an important element in our transportation system will be missing. Further, the Congress has not authorized any major rehabilitation other than lock and dam 26 since early in the last decade for mainly budgetary reasons. We in the Congress must find a solution to our funding dilemmas. When waterway user charges were first authorized in 1978, it was said that the amounts collected would allow the corps to do additional work not currently being done because of funding constraints. This has not proved to be true. Now the Congress has been asked by this administration to raise inland waterway user charges.

The study mandated by Public Law 95-502 suggests that a fuel tax of 38 cents per gallon is required for full cost recovery. This level of charge seems astronomically high. I shall seek to examine how such a rate, if imposed, would impact on the movement of goods on our inland waterways and the relationship this would have to other modes of transportation.

I am pleased that Secretary Lewis could be here today to discuss this study and answer some of the questions we have regarding the impact of the 205 study and the President's proposal for increased user charges.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Mr. MOYNIHAN. I welcome the distinguished Secretary of Transportation and the indomitable Director of the Congressional Budget Office to the chambers of the Environment and Public Works Committee. By your presence here today I suppose I can infer that the subject matter of our hearings—inland waterway user fees—is of more than passing interest to your respective agencies. Both of you come armed with recent and thorough studies on user fees.

The section 205 study was one of the several elements of a compromise worked out in 1978 on the imposition of a waterway fuel tax. The study's purpose was to provide Congress with the analytical underpinning on which to base future consideration of waterway user fees. Its purpose was not to tell us whether to impose such fees but rather to tell us what would happen if we did.

For some time I have been troubled by the chronic confusion of the notion of a public good with that of a free good. No where has this confusion been more apparent than in Federal navigation expenditures. This is not in any way to suggest the lack of a Federal role in undertaking improvements and carrying out maintenance. However, when commercial beneficiaries of such projects can be identified they should be expected to pay their fair share, no more and no less.

Many details of the administration's cost recovery proposal remain to be settled. For example, phasing in user fees over time may be less disruptive than immediate initiation. Also the proposal lacks a process whereby the allocation of Federal inland navigation costs may be properly and fairly assigned to commercial users. This is a necessity. Nonetheless, I strongly support the principle of cost recovery.

I cannot resist observing that the current debate on user fees on barge traffic has taken on the tone of a medieval morality play, though regretfully the script is not in middle English. I refer of course to the notion of "competitive equity," an internally contradictory term but one that seems to have caught the imagination of those opposed to the principle of cost recovery on certain modes of commercial transportation. Somehow the Federal Government is expected to preserve forevermore the relative shares of commodity traffic split among the various transportation modes.

It is thus with some amusement that I note the promotional material distributed by the railroads and the barge operators on this very subject of competitive equity. A brochure entitled "Myths, Facts and Genuine Surprises—A Truly Objective Look at Transportation Subsidies" is authored coincidentally by the American Waterways Operators. "User Charges and Transportation Efficiency: Why Transportation Modes Must Compete on the Basis of Market Forces Rather Than Federal Subsidies" is a product of the Association of American Railroads. So much for objectivity.

My friend John Creedy of the Water Transport Association recently reminded me of a statement I made regarding economic assumptions in the budget: "Everyone is entitled to his or her own opinion, but not to his or her own facts." The purpose of this morning's hearing is to set out the facts. I look forward to our witnesses' testimony.

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United States Senate
COMMITTEE ON ARMED SERVICES
WASHINGTON, D.C. 20510

February 9, 1982

Honorable James Abdnor, Chairman
Water Resources Subcommittee
Environment and Public Works Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I would like to bring to your attention certain erroneous statements contained in the Department of Transportation's report on Inland Waterway User Taxes and Charges.

The study asserts on Page 7 that "...there appear to be four major river segments whose present traffic simply could not pay the full current costs of operating and maintaining these segments together with the cost of the new construction that is currently authorized for these sections." One of the segments cited was the "Tennessee/Tombigbee." Although the recovery of construction costs would be a prohibitive tax for any river segment in the United States, it is analytically incorrect and misleading to include construction costs for some river segments and not others.

For example, the report labels the Tennessee-Tombigbee as a "High Cost/Low Volume" segment in a table on Page 7 which lists the Estimated Implicit User Charge To Recover 1977 Federal Operations and Maintenance Costs (in mills per ton-mile), and reports that there is "no traffic at present." However, in the following paragraph asserts that: "Although the Arkansas is among the high-cost rivers, the analysis indicates that it is able to hold its traffic, and, as its traffic grows over time, ton/mile costs come down. The other high-cost river segments do not have sufficient future traffic growth projected for them to become viable under a cost recovery system based on segment-specific user charges." This is erroneous. The Tennessee-Tombigbee Waterway implicit user charges to recover operations and maintenance is estimated by the Corps of Engineers to be less than 1.96 mills per ton mile, which would qualify the Tennessee-Tombigbee as a lower cost waterway than the Arkansas.

The following paragraph on Page 7 refers to the arbitrary decisions about groups of rivers and stretches for purposes of the analysis and states that "For this reason, some of the segments which the analysis shows cannot hold their traffic contain stretches which might well hold their own. For example, the Tenn-Tom, as defined for this analysis, includes the Warrior River which is definitely able to hold its traffic under segment-specific charges." Although detailed cost figures were not provided in the study for the Tennessee-Tombigbee, lumping the Tennessee-Tombigbee with the Warrior and Alabama/Coosa systems would reflect unfairly on the lower operations and maintenance cost of the Tennessee-Tombigbee. If river segments groupings were necessary for the analysis, a more appropriate grouping would have included the Tennessee and Ohio River Systems, the Tennessee-Tombigbee Waterway, and the Black Warrior.

I would greatly appreciate the consideration of the Committee in this matter, and hope that the flaws in the study are corrected. In this regard, I would appreciate having this letter made part of the Committee's proceedings on the Section 205 Study.

Sincerely,

John C. Stennis

JOHN C. STENNIS
United States Senator

JCS:jhl

Senator **Domenici**. Reserving the right to object, are they for or against?

Senator **Abdnor**. I haven't read them.

Senator **Domenici**. That is all right. I have no objection.

Senator **Abdnor**. With that, Senator Gorton arrived first. I will call on him for an opening statement.

OPENING STATEMENT OF HON. SLADE GORTON, U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator **Gorton**. Thank you, Mr. Chairman. I am extremely encouraged by your own opening statement and by the careful study to which not only the section 205 study but also the cost-recovery proposals will be subjected during the balance of this session of the Congress.

I regret that I must be on the floor at 10:30. I hope that I will be able to return in time to question both the Secretary of Transportation and Dr. Rivlin. If I am not, however, I will ask your permission to submit questions to the witnesses in writing.

Obviously, I have had a great deal of sympathy with the proposals for more significant cost recovery in this area. I would be remiss, however, if I did not share my deep concern over some elements, over major elements, of this proposal and the impact that they are likely to have on the ability of the United States to compete effectively in the grain export market in general and most specifically on the traditional patterns of transportation of grain exports from the Columbia River Valley and its tributaries to Portland and to other ports on the lower Columbia, which of course impact not only the State of Washington but the States of Oregon, Idaho, and Montana, at the very least.

To the extent that that traffic will be inhibited and those economic assets harmed, I will of course have serious reservations about some of the proposals which are before us. But just as you, Mr. Chairman, accomplished what I consider to be a major triumph in working out the port and waterway user fees in such a fashion as to not have that adverse impact in my view, I am convinced that you and this subcommittee working with you will be able to meet the minimum requirements of the administration without having an adverse impact on either the condition of our waterways on our actual ability to use them for substantial and important commercial purposes.

Senator **Abdnor**. Thank you for that kind statement. Let me say, we would never have worked out some of those problems without your input and help. We hope by working together we can do the same thing here.

Senator Baucus?

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator **Baucus**. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, Mr. Secretary, it is my pleasure to again get everyone here to address this question. It is a question that faces particular difficulty for me in my part of the country.

Mr. Chairman, this proposal has been, and continues to be, very controversial, not just in the West but all across the country. Montana grain farmers and grain farmers throughout the Pacific Northwest make substantial use of the Columbia-Snake system to move grain for export. For that reason I am especially concerned about the 205 study's admission that grain farmers will experience "noticeable adverse effects from user charges" and that these effects will be "lasting."

The Nation's grain farmers are a vital part of our international trade. The 205 report attempts to argue that shippers farther from waterways will not feel the effects of the fees so severely. I am not so sure. If the distant waterway helps hold down rail rates, as it does in Montana, the effects of the user fee could be quite severe.

I am very concerned about the waterway user fee proposal. The Montana grain shippers have only one railroad on which to move grain. It had to engage in costly litigation against the allegedly excessive rates charged by that railroad. They are experiencing some success in court, but relief is slow in coming.

The only alternative they have is to ship their grain by truck to Lewiston, Idaho where it is barged to Portland, Oreg., for export. In recent years anywhere from 15 percent to over 50 percent of Montana's exported grain has moved by truck and barge. This shows clearly that Montana grain farmers need and use a competitive transportation alternative.

We should not take actions in this subcommittee that reduce that competitive grain transportation. For this reason I am concerned that the waterway user fee could have a severe adverse impact on the Columbia River system.

My concern about the waterway user fee goes beyond the issue of Montana wheat exports and the Columbia. I will make only two points. First, I remain unconvinced, in spite of the 205 study, that we have adequately evaluated and compared all transportation subsidies. Such an evaluation must in my judgment include historical subsidies. We must examine the extent to which they have built distortions into the transportation marketplace.

In reviewing existing subsidies we must also include fairly allocated direct government outlays. We must also include tax breaks that benefit one mode of transportation. Until the undertaking of such a review we can't really say that we know what we are doing when we reduce or eliminate transportation subsidies.

I will be introducing legislation immediately after the recess to mandate such a study. It will not take long to complete. But it is in my judgment an essential step before substantial changes in any transportation subsidy should be adopted.

Second, as I have previously indicated concerning the deep-water ports bill reported from this subcommittee, we cannot afford to consider user fees in isolation from international trade. Last year the GAO found that the Nation's grain transportation system must be addressed as a whole. That same logic applies here. The 205 study indicates that a waterway user fee could reduce growth rates for commodity movements, including a sharp drop in traffic in the early years. The 205 study has overestimated the long-term growth trend in waterway traffic. The impact of user fees may be greater in the outyears as well.

But there is fear that a significantly increased fee could impact our balance-of-trade posture. I would like to see us work with the Trade Subcommittee of the Finance Committee to address these impacts clearly before moving this legislation.

I reviewed the prepared testimony of the subcommittee witnesses for today. As always, I find the testimony of you, Mr. Secretary, and also Mrs. Rivlin, to be competent and instructive. It would be reassuring if their perspective would be shared by farm shippers and waterway witnesses at subsequent hearings—but I have my doubt. I am certain someone will take issue with table 341, which appears to assert that user fees would have no farm income impact in North and South Dakota. The table, unfortunately, does not even list Montana.

In any case, I look forward to working with you, Mr. Secretary, and you, Mr. Chairman, on this issue. I will be submitting questions for both witnesses in writing. I appreciate their appearance today.

Senator **Abdnor**. Thank you, Senator Baucus.

I would next call on someone who would be the chairman if he hadn't taken on two very important committees. He is one of our real experts in the field of water, with very definite thoughts on the entire water picture. Senator Domenici.

OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator **Domenici**. Thank you, Mr. Chairman.

First, I look out here at this rather large audience and I hope you know that they are all here because they support user fees.

I didn't even tell them I was coming today, so they don't have to be prepared to hiss today. And I understand you will keep good control over them.

Senator **Abdnor**. Right.

Senator **Domenici**. Mr. Chairman, I am pleased to be here in welcoming Secretary Lewis and Dr. Rivlin. The completion and the release of the section 205 study represents an extremely important step in our efforts to understand the impact of President Reagan's proposal for higher user charges on the inland waterways.

I recognize the great difficulties that faced the Department as it developed this study. I recognize also the intense pressure to delay the release of this information.

Mr. Secretary, while you may never resolve some of the questions regarding DOT's assumptions in the study, I believe you and your staff have made an extremely important contribution.

Mr. Secretary, the issue of user charges is one that lacks any real constituency, other than sound government. The barge companies hate it. So do the farmers. The coal companies don't like it. The steel companies and the chemical companies and oil companies oppose it. Name a constituency and it opposes user charges—with the obvious exception of the railroad industry. Clearly anyone with a subsidy wants that subsidy to continue.

Despite this reality, I remain convinced that user charges are important. They are important for equity. They are important to assure that the user participants and those who are concerned about investment decisions for percentage user charges are the only way to involve beneficiaries in a determination of investment priorities. For that reason, it is important in that regard also.

User charges are important to break the cycle of subsidies that threaten to engulf our entire economy. Subsidies and distortions, as represented by heavy existing taxpayer benefits to waterway shippers, undermine our ability to revive this economy. Waterway user charges, like charges on any other forms of transportation, are a necessary component to revitalize the Nation's economy and revitalize our entire transportation system.

Mr. Secretary, I believe the key point right now—and it probably starts today, it may not end today—is to determine just how serious you, Mr. Secretary, and President Reagan are. If you fail to make it clear that you are determined to bring transportation equity by eliminating various subsidies, I think we must sadly look forward to more stagnation and more subsidies.

I look forward to working with you on this issue which has such symbolic as well as practical significance for our Nation. Without you and the President committed, there is no chance that we will accomplish this. I think you know the dimension of the opposition. It is obvious they are beneficiaries. Anybody that is a beneficiary of a subsidy never likes to have it adjusted, changed, or in any way altered.

So, Mr. Secretary, in this regard, the entire user notion of the President, not only on inland waterways but on the deep ports—for I don't think that bill that is on the floor of the Senate, because it cleared this committee, means we have accomplished anything. This same group that opposes inland water fees will oppose it because they don't want another of the subsidies that is tied together, fall by the wayside.

You can see the significance of it by the dimension of participation here before a rather generally innocuous subcommittee that talks about paying for water projects in this country.

Thank you very much. It is a pleasure to have you here.

Senator **Abdnor**. Thank you, Senator Domenici.

Another one of the valuable members of this committee has just joined us. Senator Bentsen.

OPENING STATEMENT OF HON. LLOYD BENTSEN, U.S. SENATOR FROM THE STATE OF TEXAS

Senator **Bentsen**. Thank you very much, Mr. Chairman.

I know my friend from New Mexico is not overburdened with waterways in his State.

Senator **Domenici**. That is right.

Senator **Bentsen**. But I have my full share of them.

Senator **Domenici**. I have the Rio Grande River.

Senator **Bentsen**. I am concerned, obviously. We studied the issue of waterway fees last year and said we would have to wait on what happened with the section 205 study. Now we have that available to us. We will have to reexamine it with that in mind.

But when we are talking about user fees, and I generally support them—I worked very much on them on the highway program—we have to also understand that all of the charges should not be attributable just to those who use it for commercial purposes. You have a lot of other things you find in the way of benefits to those particular waterways. So we want to keep those in mind as we evaluate the proposal.

But I am delighted to be here with the Secretary and will listen to his testimony this morning.

Senator ABDNOR. Thank you.

We are ready to hear from Secretary Lewis. We certainly want to welcome you to this committee. I want you to know I have great appreciation and respect for the job you are doing. I know what you have to do sometimes is difficult. I know you have always been very fair and work toward what you believe is proper and right. So at this time, without any additional delay, I am going to call on you, Mr. Secretary, and ask you to introduce your associates and we will go from there.

STATEMENT OF HON. DREW LEWIS, SECRETARY, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY DARRELL TRENT, DEPUTY SECRETARY OF TRANSPORTATION AND RICHARD WALSH, DIRECTOR, OFFICE OF ECONOMICS

Secretary LEWIS. Thank you very much, Mr. Chairman. Having met with you for a few minutes before this hearing, I don't think it would be appropriate to say I am delighted to be here today. But I will say that I think it is a good forum for us to share our various views on this particular issue.

I have submitted for your committee record a 22-page statement, which I will not read. I would like to ask your permission to have this be made a part of the record and perhaps just summarize a few points very briefly.

Senator ABDNOR. Fine. Without objection, your entire statement will be placed in the record.

Secretary LEWIS. With me today is Darrell Trent, Deputy Secretary of Transportation, and Dick Walsh, who is Director of the Office of Economics. After I make a few brief remarks, we will be prepared to try to answer your questions.

First of all, Mr. Chairman, I think you summarized the issues it very well in the four points you made in terms of minimizing impact, making it as realistic as possible, maximizing the use of the waterways, and to be certain that the waterways are not a disadvantage to other modes of transportation. I can assure you that our objectives are the same as yours in trying to implement this program.

What I would like to do is just hit three matters: First, the role of cost recovery in transportation policy; second, the results of the section 205 waterway user charge study; and third, the administration's specific recommendations for the implementation of cost recovery on the inland waterways.

The recovery from users of the Federal costs of building and operating public facilities has been long established and accepted as sound public policy, especially in the field of transportation. Both the Congress and the executive branch, in law and in Executive order, have again and again confirmed this policy. In most modes of transportation which make use of federally financed facilities—

the aviation and highway modes, for example—the cost recovery principle has long been honored.

Two major concepts underlie the cost recovery principle. One is the matter of fairness or equity in the distribution of the Federal tax burden. It seems to me that it is only simple justice that profitmaking businesses should pay for the facilities they use rather than having general taxpayers bear their costs. There is just no good reason for Government—that is, the taxpayer—to subsidize such operations, unless it truly serves overriding national interests. In the case of a profitmaking, freight-carrying mode, it is difficult for me to see what that objective could be.

The other basic concept relates to the effective functioning of the free marketplace as the mechanism which should decide how much and which traffic should go by each mode. When not distorted by subsidy or arbitrary regulation, the marketplace lets shippers decide how much of which commodity they will ship by which mode. The decision is based solely on each mode's respective cost and service characteristics.

In order that the market mechanism be a truly efficient decisionmaking device, the transportation rates that face the shipper as he makes his decisions must accurately reflect the costs of each mode. To the extent that any portion of a carrier's costs are picked up by the Federal Government, the rates that he quotes will understate the true cost of moving goods by that mode.

Whenever part of the true costs of any mode becomes masked by subsidy in this way, inefficiencies begin to occur. Real efficiencies in other modes are lost as traffic shifted by the artificially low rates of the subsidized mode actually moves at greater total costs.

I am aware that there are many critics, and I have heard a few of them here today, of the administration's bill. But I hope you would agree with these principles and feel that we are at least attempting to apply them consistently and evenhandedly to all modes.

I am sure you will have questions on that and we will be glad to respond to that during the questioning period.

Indeed, some have argued that the waterway operators are being singled out for especially harsh treatment while other modes would continue to be subsidized. This is simply not the case.

As far as the freight-carrying modes are concerned, the administration has only one policy. That is 100 percent cost recovery. I would like to just review that very briefly. Let me review this position with respect to the waterway's competitors, the railroads, and the motor carriers.

First of all, the Federal highway program has been on a 100-percent cost recovery basis since the 1930's. The policy toward freight-carrying railroads is equally clear, and that is no subsidy.

At our urging, Congress has enacted legislation that will end the subsidy to Conrail within a couple of years. There has been a temporary windfall benefit to the railroads as a result of the tax leasing available under the new Tax Code. However, in obtaining this they did lose Federal financing of their retirement fund. Again, the tax benefit is a one-shot kind of thing which I don't think can relate to the long-term user fee concept.

I would like to just make one final point about the railroads since it constantly comes up when I have dealt with large operators.

They raise questions about past Federal aid to the railroads in the form of 19th century land grants, emergency loans, grade crossing programs, and so forth. I submit that this is not particularly helpful as we view the present situation. At one time or another every mode has received substantial public support when the public policy objectives of the day, for whatever reason, were to promote and encourage growth of that particular mode. The opening of the West, the economic development of the depressed regions, emergency transitional assistance, whatever the wisdom at the time of the specific decision, these were all legitimate public policy objectives that didn't and shouldn't have anything to do with the principle of full cost recovery over the long run for all modes within the Department of Transportation.

The only useful thing and fair thing, as I see it, is to look ahead, to establish consistent and equitable policies for the future, and not try to sort out who got what from whom in the past and whether the result met some idealized notion.

In summary, the simplest, most straightforward, evenhanded policy will serve us all the best in the long run: Full cost recovery from all of the competing freight transportation modes, no permanent subsidy for any of them, and the quickest possible shift to this status as can be achieved.

I am not going to get into the results of the study. We have a plan, as you are aware, to try to minimize the burden, particularly on the construction cost, to try to spread it evenly across the system so we do not have elimination of some of those systems that are less profitable. But I would leave this issue to your questions since I believe it is fairly well documented in the study and in the written testimony that I submitted.

With that, I thank you for the opportunity to speak, Mr. Chairman, and am prepared to answer your questions.

Senator **Abdnor**. Thank you.

It looks like the administration's proposal would result in a fuel tax this year of about what, 35 cents a gallon, on barge operations?

Secretary **Lewis**. We are suggesting that the fee mechanism be changed and not be to a fuel tax but rather a millage tax per ton-mile, for operation and maintenance expenditures, with some kind of segment specific charge on a per-ton basis for those areas where new construction takes place.

Basically what we are proposing is a charge that would amount to let's say in terms of grain about 1 percent of the cost of the present value of that grain.

Senator **Abdnor**. Let me ask more specifically. You said about. I guess it is 6 cents a gallon today. We are talking about 35 cents or so. So how does that relate? I guess the 6 cents is on—what is the 35 cents on?

Mr. **Walsh**. The current fuel tax is 6 cents a gallon. It will rise to 10 cents in a couple of years. You were correct in saying that the fuel tax equivalent would be about 34, 38 cents. That is what we are proposing to recover.

We would not recover, however, on the basis of the fuel tax. Rather, we would recover on the millage per ton-mile.

Secretary **Lewis**. Dollarwise we are talking about the same thing. We are talking ultimate recovery by 1990 of what, $250 to $300 million, in 1977 dollars?

Mr. **Walsh**. Right.

Senator **Abdnor**. Isn't that a real drastic increase, all of a sudden? That is quite a jump, right?

Secretary **Lewis**. There is no question it is a significant increase. But it is also I think clear there are significant inequities in the sense that the waterways presently are probably the most heavily subsidized mode of transportation.

Dr. Rivlin I think is going to comment on that in her testimony, so I won't get involved in the details. But it is a significant increase. If you look at the valve of the product being moved, we are talking about on a per bushel basis, for example in grain, about 6 cents in 1990 and between one-half and 1 percent of the present value of a bushel of wheat, soybeans, corn.

Senator **Abdnor**. Let me ask you one thing. Is the general thinking behind this that the eventual end of this will be passed on to the consumer? Is that right? When you think in terms of this increase, are you thinking in terms that the barge people are going to absorb it? You mentioned elevators will absorb it. Do you really think that—obviously, the farmer, because in my case I was thinking more directly about farming—I am more familiar with that type of commodity. Of course, I also think that there is no way in the world the farmers could pass on an increase. They absorb it. But I think your testimony suggests that would also be partially absorbed, in the instance of agriculture, by the barge people and the elevators. Do you really think that would happen?

Secretary **Lewis**. First of all, Senator, with any user fee you impose anywhere in Government, the incidence has to fall on someone. There is no magic to absorb it.

There is really a shift from taxpayers in this country absorbing the subsidy on inland waterways. The tax directly involved in freight movements. It is going to be shifted along to a number of people. I don't want to minimize the impact. I think it does impact on grain farmers and impact on barge operators.

The other question is whether or not they should have that impact and what that does in relation to foreign trade and some of the issues raised by others in their testimony. Our feeling is that this shift is justified, that depending on the strength of the market in grain, conceivably it could be absorbed particularly in the future by foreign governments as they purchase our products. We are not talking about that much in terms of the bushel cost. The barge operators again, depending on the competitiveness and the nature of other modes they are competing with, may be absorbing some of this.

Ultimately the person who pays this is the consumer. I understand the condition of your farmers. I understand the problems they are having in terms of bankruptcy and foreclosure and what interest rates are doing to them. But we are not looking at this in terms of a 1982 recession. We are looking at this in terms of programs that would establish equity among all modes of transportation.

Senator **Abdnor**. I don't want you or the witnesses or the people here to think my only concern is what it is going to do to agriculture. This is a broad coverage of the economy we are talking about. But I just happen to know something about the agriculture end of it.

I happen to know that right now they are in the most difficult times since the thirties. Every cost that we have ever passed on ultimately end up in the hands of the consumer.

Just for the record, I make the statement that there is just no way in the world agriculture, the farmers, can pass it on to anyone. He takes whatever the market is. I point out this year, for instance, corn has dropped 60, 70 cents a bushel while expenses are going up trying to cover the inflation. Here comes another cost item. I just make that point and would like to have it in the record.

In your report, you are quite confident that barge traffic will increase despite the cost impact of user charges. Now, what if you are wrong? Do you allow yourself an area where possibly you could be wrong? If so, aren't we threatening a potential monopoly for the railroad?

Secretary **Lewis**. Obviously, I think any study you make can be wrong. We are going to be providing you in I guess 2 or 3 weeks, when we finally get the printouts from the contractor who prepared the study for us, all the backup material that supports the report that was submitted to you by the Department of Transportation.

We think we have been conservative. In fact, we have bent over backward to try to be conservative. So our position is very clear.

In the Department of Transportation, we don't just have the problem in terms of user fees on inland waterways. We are doing the same thing in airlines, the Coast Guard, a number of other areas. Obviously we will be doing it in the highways. So we are not out to get the barge operators or hurt the grain farmers. We are trying to establish an equity here.

Hopefully the study is evenhanded. I can't claim I am an expert on the study. Your people are going to be working with it. Dick Walsh and people in our Department have worked very hard with the people doing it. We think they did a competent job.

Senator **Abdnor**. I don't want to monopolize all the time.

Senator Baucus?

Senator **Baucus**. Thank you, Mr. Chairman.

Mr. Secretary, I won't take too much time here. I think all of us are in agreement that as a general principle we would like user fees. I think people should pay for what they use, period.

Second, I think we tend not to like subsidies. You, yourself, however, stated that there are exceptions and overriding national interests, for example, where subsidies sometimes make sense. Obviously we are not going to eliminate all subsidies. Our Tax Code is riddled with subsidies, with the ACRS system, subsidies on capital investment, for example. We subsidize all kinds of private enterprise activities.

The real question is which ones should we have and which ones should we not have. I think as a general principle we should err on the side of moving toward user fees. I agree with you there.

I would like to take off a little on the point the chairman made. I don't want to sound too parochial here. Farmers can't pass on their cost increases. They can't do it. They are stuck. You know as well as I the historical trend that farmers are facing with increased costs for farmers but no increase in the price of products to farmers. It is a big problem in our country. It is particularly a problem in my part of the country, the Pacific Northwest, and probably more particularly in Montana and the Dakotas and so forth where we don't have competition. So when you add user fees and where there is no competition, it hits farmers that much more.

Pacific Northern will charge what the market will bear. Where there is no competition, they will jack up the freight rates to 180 percent of their operating costs.

So the point is in some areas, in some cases, there can be exception to the general principle on increased user fees. So what I am asking is the open question: Aren't there some exceptions here to the effort to enact user fees in waterway traffic?

Secretary LEWIS. If you will look at the user fee concept specifically, you mentioned railroads in relation to inland waterways, inland waterway subsidies are probably somewhere in the vicinity of five times as great as railroads. I think if you use the same logic you are suggesting that necessarily because you had the slight increase, which I say amounts to 1 percent of the value of the commodity or about 6 cents per bushel going out 9 years, I don't think that is going to be the determination that is going to eliminate waterways as a mode of transportation versus railroads. But if you carried it out to the extreme, then you could say logically if inland waterways didn't charge anything, neither would railroads.

I don't think your conclusion is necessarily drawn from the facts that exist under this particular user charge, that you are going to provide a monopoly situation that is going to be eliminating the use of inland waterways in our area. If you could document that for us, we would like very much to see your figures and review them. We have looked at them in that context and can't see that as a logical conclusion.

Senator BAUCUS. All I am saying is it is a free marketplace idea and deregulation is a good idea generally. But it works more where there is actually a market and actually competition. When you get in those segments of the economy where there is no competition, that is rural areas, in some respect in our country, I suggest there should be some modification.

Secretary LEWIS. No; I understand your point.

Senator BAUCUS. Thank you.

Senator ABDNOR. Thank you, Senator Baucus.

Senator Domenici?

Senator DOMENICI. Mr. Secretary, your 6-cents-a-bushel statement is the worst case statement, is it not?

Secretary LEWIS. As we see it for most shippers 6 to 7 cents a bushel represents the worst case. There are only a few exceptions.

Senator DOMENICI. As a matter of fact, maximum on the Columbia is 2 cents, as I understand it; is that correct?

Secretary **Lewis**. Dick, do you have those figures?

Mr. **Walsh**. I can get them. Go ahead.

Secretary **Lewis**. We will give you the specific figures.

Senator **Domenici**. I think that is correct.

I am as concerned about the situation in agriculture as anyone here. In fact, I don't think we should do anything——

Secretary **Lewis**. Your figure was correct.

Senator **Domenici**. I don't think we ought to do anything to impose a further burden on agriculture while we are in the middle of this recession and while agriculture is tottering. You are not suggesting that this is a policy for the next 6 months or even 18 months, as I understand your testimony. But let me ask you this, Mr. Secretary: There is a great deal of discussion here about the prospects of the cost of shipping going up to certain shippers as a result of the user fee.

Now, my understanding of this issue, going back to President Eisenhower, who first recommended to the Congress of the United States that we get rid of these subsidies and begin to drastically alter them, the basic position then is still the same now. In fact, I am reminded it preceded Eisenhower. It was President Roosevelt who suggested that. So it even goes back beyond that. But the basic notion was not only the one discussed here about very regional impacts but was one of the distortions of the entire transportation system.

It seems to me if that is the case, that there must be some evidence that railroads, being entrepreneurs, also must adjust their rates to the competition that the inland routes bring. They would get no shipping if they run parallel to the inland waterways when that has been basically free and they must pay. So I would assume in this total intermodal analysis that the further you get away from the inland route, the railroad must charge more to make up for the fact that they have to compete on the inland route.

Now, that is the notion that started with Roosevelt and was reemphasized. Eisenhower suggested it, everybody suggested it, that to bring a marketplace equity to the pricing, we have to get away from the distortion created in the areas where the inland waterways run. That doesn't have only to do with adjacent, but it also has to do with where you end up shipping from.

It seems to me Texas ultimately will benefit, contrary to the concern, because most of it is going the other way because the inland ends up in Louisiana. So you don't go the other route and ship out in Texas because you have very cheap rates going into the deeper south.

Now, does the study address that in terms of intermodal adjustments which might end up saving money for people?

Secretary **Lewis**. The study does not address that specific point. The conclusion you have reached, which is actually a better answer to Senator Baucus than I gave, is essentially the same position the Department has and has recognized for a long while.

Senator **Domenici**. It appears to me that none of these will work out perfectly because if you have a railroad system that tends to be monopolistic, you might have them already in a position where they make their profits in spite of the market. But it would appear to me you have a better chance of getting rate adjustments across the Nation without the distortion of the inland waterways if the inlands begin to pay their fair share. Do you agree with that?

Secretary **Lewis**. Correct. Yes; we do. That is one of the bases of our proposal.

Senator **Domenici**. Mr. Secretary, on the study itself, can you tell us whether you and your experts have concluded that the 205 study establishes an appropriate basis for congressional action on user charges?

Secretary **Lewis**. Yes, we do. And we will give you substantial data to back up the report submitted by the Department of Transportation within 3 weeks, with the specifics of the proposal in terms of the level of taxation that we are recommending.

Senator **Domenici**. My point, Mr. Secretary is this. The issue is a difficult one. There is a tendency to find reasons not to do it. The one right now is that agriculture is in trouble, which I have agreed with. But the other one will be that we ought to study it some more. That is why I raise the question. I want you to tell us as the chief transportation man for this country, on that issue alone, not whether there are some economic problems that are temporary, do you and your staff feel there is sufficient information to act or is there justification for some delay based upon further studies?

Secretary **Lewis**. We think we have sufficient information to act and do not recommend additional study. The one thing I found in this Department, having been there a little over a year, is we have been studying things to death ever since the Department has been put together. As you say, it is just a diversionary tactic that may be uncomfortable to someone at a particular time.

Senator **Abdnor**. Would the Senator yield?

Senator **Domenici**. I would be happy to.

Senator **Abdnor**. I was referring to an area of your written statement where you said, "In order to do a responsible job with the funds available, we had to concentrate our resources on the central policy issues of most concern to the Congress. Accordingly, we devoted most of our attention to the actual impacts of user charges on those most affected." Then you said, "The treatment of these issues was largely done with our own staff and that of the Department of Commerce. It is my opinion that nothing of importance was given up."

Do you feel there are no other areas that should be looked at, that we can find everything in this study that we need to find?

Secretary **Lewis**. We think there is adequate documentation in this study to support the recommendation we are making to this committee.

Senator **Abdnor**. I am sorry. Thank you.

Senator **Domenici**. That is fine, Mr. Chairman. And please stop me when you think I have used enough time.

Mr. Secretary, I haven't had a chance to review the study indepth, either. I wonder if you could tell me whether you have answers to this proposition; if not, you could give them to us.

It is obvious to me, and I assume to you, that both in the private as well as the public sector there is the basic fact that the existence of a subsidy distorts investment decisions. Now, I wonder if that is true, and does this distortion destroy or damage the transportation network? If it does, could you explain how the resulting transportation efficiencies would benefit the economy?

Secretary **Lewis**. Very frankly, not only in barge transportation but in all modes of transportation we think we are better off with an adequate user fee. And ultimately the barge industry, despite its resistance on this proposal now, will find that they are better able to take care of their own needs in the future if there is an adequate fee and distribution of that fee to other than the taxpayers, the point being they will not have to constantly come to Congress to try and get locks and dam 26 completed, or whatever the specific project will be.

It not only applies here, but we think it applies to the airways. And you can say the airline industry is certainly not in a much stronger position now than the agriculture economy. In spite of that, they recognize in terms of long-term competitiveness they are better off absorbing the costs that will have to be absorbed and upgrading the traffic control system, for example.

So very specifically, Senator, we feel if we can once get over this hump of getting away from the subsidies in the past and our feelings of members of the Federal Government taking care of us, that all of these industries will ultimately be stronger.

Senator **Domenici**. Mr. Secretary, let me ask you, I think you have stated it in your testimony, but in my opening remarks, I clearly intended to tell you that we aren't going to get to first base on a user fee proposition unless you, in behalf of the President, are committed to it and committed to it with a real degree of vigor, the kind you have exercised in many of the other areas of eliminating major subsidies other than in the transportation system. Are you so committed and are you dedicated to that proposition, Mr. Secretary?

Secretary **Lewis**. I am committed and dedicated to that proposition and hope to be able to work with this committee to reach a conclusion we can live with and the committee can live with.

Senator **Domenici**. Mr. Secretary, if you and your staff look back at the only time we have succeeded in imposing a user fee, the one that is now 6 and is going to 10—I happen to have had a little bit to do with that, as you know—the only reason that occurred, in my opinion, is because locks and dam 26 needed a substantial amount of money. It needed to be remodeled. The then President of the United States took the position that when you put a user fee on, we will go along with congressional action to appropriate significant amounts of money for locks and dam 26.

Now, Mr. Secretary, I note in the budget that about $150 million necessary for Corps of Engineers work on the inland waterways is not included in the budget. Could you tell me why?

Secretary **Lewis**. Basically, I think your question almost answers itself. The specific figure is $158 million.

We are satisfied to see that money put back in, but it is going to be put back in coming out of user fees. If we move in that direction, that will be the source of revenues and additional revenues.

We have several areas that are going to need upgrading. The Allegheny River is going to have problems in my State, as you are aware, in the present situation. If we get user fees in, we will have the wherewithal to keep the system at the level where the barge operators and shippers would like to have it.

Senator Domenici. Thank you, Mr. Secretary.

Senator Abdnor. Senator Bentsen?

Senator Bentsen. Thank you very much, Mr. Chairman.

Mr. Secretary, I was interested in the line of questioning. I note that my friend from New Mexico asked if you felt you did a responsible study and if it was something that could be used for the basis of legislation. I don't recall any department head telling me they did an irresponsible study or it wasn't something they could use for the basis of legislation.

I also heard the statement that this is good for the barge lines because once you have this in effect, they won't have to come up and testify or ask that these improvements be made in the inland waterways and the locks.

I don't really think that is the way it will work. I haven't seen that happen with the highway trust fund. I haven't seen that happen with the airport trust fund. In this particular instance, you still have the appropriations process that will have to be relied on. So they will be up here testifying. They will be asking for these improvements regardless, I believe.

Now, the problem of subsidies, what we are running into, and it has been cited here what is happening to the farmers. I have more farmers in my State than any other State in the Union. The Farmers Home Administration shows 35 percent of those loans in delinquency. The farmers don't have a recession, they have a depression. They have the lowest net income that they have had since 1934.

At the same time, we are seeing a major change in world market share taking place. We are seeing the EC increase its subsidies to farmers up to $40 billion. We have reduced ours to $3 billion. Theirs is more than 10 times ours. We are seeing them go into the Middle East and take markets that were our markets and now they are their markets. We have a very small percentage of them.

They have done it with subsidies. I don't like subsidies, either. But here we are with a contrary policy taking place at a time that is very critical to the American farmer. So sometimes I think there is a reason to phase in major changes.

I know, at least I understand that this study was calculated on the economic impacts of immediate implementation. I wonder if the DOT did an assessment as to the mitigation of these effects if there had been a phasing in of the increases.

Secretary Lewis. At the present time we do not have a study on phasing in because merely to get this done and get it here and be prepared for this testimony, that is not completed. We can provide such a document for you at the same time we provide our recommendation on the levels of the millage tax.

Senator Bentsen. That would be very helpful if we could have it.

The other thing, of course, is we tried to determine what the subsidies are. I am wondering on the benefits for Federal expenditures for waterway transportation, how they compare with multiple purpose benefit analyses when you get into the recreation, hydroelectric power, flood control, and all the others. Have we compared that allocation? How was it done in those instances as to what was done here?

Secretary **Lewis**. Our study is really trying to come up with an equitable way to distribute user fees so it is equitable with the situation in let's say the railroad industry or the truckers. Is that responsive to your question?

Senator **Bentsen**. That is partially in response. We are striving for the same thing, but I am trying to understand just how those allocations were made, if they were comparable allocations that were made in these other types of Federal expenditures for flood control, for wildlife.

Secretary **Lewis**. We did separate out the items that we felt were applicable in the inland waterways specifically to this particular industry. That has been done. But let's say comparing with subsidies in hydroelectric power or something of that type, no, we did not. But I say again our objective has been to look in the Department of Transportation at all modes treated equitably and hopefully with 100 percent cost-recovery.

Senator **Bentsen**. I have one here that has been given to me which seems to me to be a pertinent question. In 1978, it says on the 21 segments listed by the corps, there were 812,445 locking operations performed, according to the records of the Army Corps of Engineers. Some 66 percent of the lockages were designated commercial and 28 percent were listed as recreational.

Do you think it is proper to charge the commercial navigation section alone for the cost of operating and improving those locks?

Secretary **Lewis**. We are only charging them for their proportional share of operating and improving those locks in our study.

Senator **Bentsen**. Would it be a proportion that would relate to something like this, where we are talking about 66 percent——

Secretary **Lewis**. I am not sure of your figures because I haven't seen them. But on a proportionate basis, that is a matter that was allocated.

Senator **Bentsen**. I understand. Let me have something specific on it. If you are not prepared at this moment to answer, I want that for the record. (See p. 22.)

Secretary **Lewis**. We can give you a specific answer to your question.

Senator **Bentsen**. I am trying to see how closely it relates to this type of situation where they designated 66 percent of it commercial and 28 percent as recreational.

Mr. **Walsh**. I think I can explain it, Senator, but we will get you another explanation in writing.

In the commercial navigation system, the improvements in locks and dams were put there for the benefit of the commercial navigation. They were not put there for the benefit of recreational lockages. As a matter of fact, recreational lockages are something that most recreational boaters don't want to do. The dams are put there to create navigation pools. Most recreational boats——

Senator **Bentsen**. Are you telling me you are charging the entire amount then?

Mr. **Walsh**. Exactly. We are charging the entire amount allocable to the use of locks and dams to commercial users.

Secretary **Lewis**. Only their proportional share, though, so we don't confuse you on that. Is that correct?

Senator **Bentsen**. Now you have done it to me.

Mr. **Walsh**. We have made a cost allocation——

Senator **Bentsen**. Do you want to try that again?

Mr. **Walsh**. We have made a cost allocation of the amounts of money spent on the inland waterway system. Any amounts that were specifically for recreation have been eliminated.

Senator **Bentsen**. They do not become a part of the proportion; is that what you are saying?

Mr. **Walsh**. That is right.

Senator **Bentsen**. Are you telling me then it is a 100-percent allocation?

Mr. **Walsh**. It is a 100-percent allocable share, yes.

Secretary **Lewis**. In other words, this is their proportional share of the cost.

Mr. **Walsh**. What I am saying is when the facility was built, there was an allocation of cost made——

Senator **Bentsen**. Let me ask it this way, then. Maybe we can better understand it. When they talked about 21 segments listed by the corps and 812,000 locking operations performed, they designated 66 percent of the lockages commercial. Are you now telling me that you just remove the 28 and charge the full 100 percent to commercial?

Mr. **Walsh**. That is not the way we approach the cost allocation. We approach the cost allocation by looking at what purpose was the facility built for and then we allocate operation and maintenance costs and capital costs in proportion to those allocations.

Senator **Bentsen**. But I think I am still getting back to the same answer. What you finally did was charge the full 100 percent, because you said you wouldn't have had to build it unless there was a commercial use for it. Is that what you are saying?

Mr. **Walsh**. That is right. We don't build most locks and dams for recreational purposes. We do build locks and dams for commercial purposes.

Senator **Bentsen**. All right. But what you are saying is if it is utilized 28 percent for recreational, that you would not charge any of that to recreational because you feel the motivating reason was for commercial in the beginning.

Mr. **Walsh**. Yes.

Senator **Bentsen**. That sure is a different allocation than what we have seen in other situations.

All right. I do want a written answer on that one. That would be helpful to me.

[The information requested follows:]

Hon. Lloyd Bentsen,
U.S. Senator,
Washington, D.C.

Dear Senator Bentsen: During my appearance before the Water Resources Subcommittee on February 10, 1982, you raised a question about the absence of any provision in the Administration's proposed inland waterway cost recovery plan for collecting charges from recreational boaters.

The Administration's conceptual approach to cost allocation usually considers recreational boating to be an incidental beneficiary of the locks and dams built to facilitate commercial navigation. Clearly, however, boats do use the locks in large numbers. While the dams may provide incidental benefits to boaters, e.g., in the form of stable navigation pools, they were not specifically built to provide such benefits to boaters and, in fact, can be viewed in some circumstances as obstacles to unfettered boating. Thus, the Administration's current cost recovery proposal does not contemplate user fees for recreational boats on the inland waterways, although these boaters would continue to pay a four cents per gallon fuel tax as a general excise tax.

This treatment of recreational boaters as an incidental use is economically sound since the locks would be maintained for commercial use even if there were no recreational users. Since the converse is not true, recreational boaters should be charged, from an economic standpoint, only for those incremental costs which are added by their use. Recreational boats typically need much less draft than commercial barges, therefore, recreational boats should not be made to share channel operation and maintenance expenditures for the waterway system.

The Administration's bill does envision one circumstance in which recreational boaters could be charged directly for use of a lock. That proposal would authorize the Secretary of the Army to levy a congestion fee for purposes of "rationing" use of an overcrowded lock or waterway. The congestion fee could be applied to recreational boaters if their use of the lock or waterway were contributing to its congestion or delay (i.e., impeding the flow of commercial traffic that pays for the facility). The rationale here is that the recreational boater is truly the "marginal" user and should be charged only when his use imposes a cost on someone else.

One could argue out of a general sense of fairness that recreational boaters should pay some kind of charge since their use of waterway facilities, especially locks, does impose at least some additional costs on the system, e.g., the cost of power to operate the lock pumps. Even a nominal charge, such as the $5 lockage fee levied on the St. Lawrence Seaway's locks, would at least recognize the fact that this usage is not completely costless. However, in view of the fact that the amounts which would be realized from such a nominal charge would be relatively small while the attendant administrative costs and paperwork burden would be relatively large, the Administration decided not to propose a fee for recreational boaters.

I hope that the foregoing discussion explains the basis for the Administration's position in this area. If you decide that you want to pursue this matter of cost recovery from recreational boaters further, we would, of course, be happy to provide any additional information or assistance you desire.

Sincerely,

——— ———.

Senator **Bentsen**. Now to follow that line of reasoning, how about the dredging operations on rivers, for example? When you get to dredging costs and maintenance there, if you didn't have the barges operating, you would have certain costs on those rivers anyway. You wouldn't be through with dredging on rivers if you stopped all barge operations. Is there any kind of an allocation there or do you attribute the entire dredging costs again to the commercial barges because they are one of those people that instigated it?

Mr. **Walsh**. Could you explain to me what kind of dredging you would do if it was not to maintain navigation channels?

Senator **Bentsen**. Oh, I can think of a lot of dredging you would do in the way of flood control. You do a lot of that.

Mr. **Walsh**. Fine. Anything that was done for flood control purposes has not been allocated to navigation.

Senator **Bentsen**. All right. I hope you continue to feel that way.

Now, in this particular study, did it examine the effect on small business, too, on the farm equipment suppliers, the grain elevators, that type of thing? Is that a part of it on the economic impact?

Mr. **Walsh**. Yes. That is discussed.

Senator **Bentsen**. I beg your pardon?

Mr. **Walsh**. That is discussed in summary fashion in the report.

Secretary **Lewis**. It is in the report.

Senator BENTSEN. I have not had a chance to dig into the report. I will be looking forward to it.

That is all the questions I have. I must say to you, Mr. Chairman, I have an Intelligence Committee meeting, too, and I am going to have to leave.

Senator ABDNOR. Thank you. You will certainly be able to submit written questions.

Senator Randolph, we are happy to have you with us.

Senator RANDOLPH. Thank you. I am slightly to the left.

Senator BENTSEN. That is not your customary position.

Senator RANDOLPH. I am an old New Dealer.

Out of necessity, I will have to go back and forth and perhaps not keep on one direct line of questioning or counseling with you.

I do want to report unofficially that we were well received, Chairman Stafford and I, at the Rules Committee this morning in reference to our budget. That makes us very happy——

Senator ABDNOR. I am happy to hear that.

Senator RANDOLPH [continuing]. Because we seem to do well with the Rules Committee year after year, regardless of who is chairman. We certainly do have an able chairman.

Senator ABDNOR. Because of your great past record here, they have great appreciation.

Senator RANDOLPH. I want to go back now to something that is going to become effective April 1. That is the cutback by the Corps of Engineers in the operation of locks and dams. That is about a 10-percent cutback in personnel; is that correct?

Mr. WALSH. My understanding it is.

Senator RANDOLPH. That means 10 percent there and 8 percent there, and it shifts. We are particularly concerned with the 12 percent as it affects what we call the Pittsburgh, Pa., district. In that district I speak this morning of the Allegheny River, with which the Secretary is well acquainted, and also the Monongahela River. These are rivers that are very close to Pittsburgh in their impact and, of course, West Virginia particularly.

The Monongahela, which is a river that has an oddity, it flows north, which is somewhat unusual.

Senator RANDOLPH. We always talk about that. We usually think of them dumping down, buy we are moving up toward Pennsylvania.

But I am very serious about this matter. The personnel cuts, Mr. Secretary, are cutting people that should not be cut, the people that are actually handling the movement of the barges on the two rivers that I am mentioning, and others as well.

Now, on the Monongahela, the Allegheny, and many others, we must remember that our locks and dams are very ancient. They have a vintage of another period. And without those who have been operating those locks and dams, having the knowledge that they have and continuing to be on the job, the cut is much deeper in its impact than just the percentage that I mention here today. We are faced with real difficulty in moving on the bossom of those two rivers, as well as other rivers, the products of fields, manufacturing, and so forth. Would you discuss that?

Secretary LEWIS. Yes, sir. As a matter of fact, as you mentioned, I am familiar with the Allegheny and Monongahela. Our position is our appropriation request will be increased, if we have adequate reimbursement through the user fee legislation. We are not targeting those two rivers to be eliminated from service. As a Pennsylvanian, I would like to see them continue in service. That is one of the real drives, indeed, behind just the concept itself to seeing this user fee legislation is enacted.

Senator Randolph. I will not discuss it further and get into the feeling about user fees at the moment.

I would like now to come the principal purpose of the section 205 study. It was to determine whether user charges would return more in revenue than they would lose in damages caused by a depressed economy. Now I ask this question: Did the section 205 study attempt to make such a calculation? Did it place a dollar value on the damages caused by transportation generally, by the user charges, on an annual basis, and compare them with the annual receipts from user charges?

Secretary Lewis. What we did within the study was to look at what we thought could be the potential dropoff in revenue to that barge industry specifically caused by increased user fees. To that extent, yes. In terms of making a calculation as to the impact of less revenue coming into the barge industry and what that tax impact would have in terms of Federal revenues and that type of detailed analysis, the answer is no, that is not part of the study.

Senator Randolph. I thank you. That clears up the matter for me in the way you have answered it.

That study was using 1977 as the base year. Very frankly, in that year there was very little export steam coal that was moved on the inland waterways of the United States. The economy naturally, nationally and internationally, was not depressed as it is today. We did not then have a large surplus of grain. I would leave that for others in the Midwest to discuss.

To what extent have these changes from conditions that prevailed in 1977, the base year, rendered suspect—and I use that word with no bad connotation—many of the findings and the projections of the report, the study report?

Secretary Lewis. Dick will answer that for you, sir.

Mr. Walsh. Senator, we don't believe it vitiated the usefulness of the report at all; 1977 was the last year for which we had complete traffic statistics. Certainly the arrival of a new and unexpected foreign market for steam coal can do nothing but make user charges more bearable for the inland waterways.

What we should focus on in the study is not 1977 but the forecast for 1990 and the year 2000. Those seem to me to be perfectly reasonable projections of the likely future. And we have measured the impacts from those likely projections. They are not disturbed or affected by the perturbations of the last 2 or 3 years.

Senator Randolph. The situations change oftentimes by what we do here on Capitol Hill—as we recall, sometimes hurriedly, sometimes in perhaps too delayed an action. Let's think of Public Law 97-119, which increased the excise tax on coal, for example, for black lung disability payments. Now, these increases are significant. These excise tax increases, why, you add them to the user charge proposed in the section 205 study, and how will this total price increase affect our projections of export sales of steam coal which you mentioned and our balancing, the payments position? I believe the impact could be significant if the two charges mentioned, Mr. Secretary, in your statement would be, let's say executed, or accepted.

I am going back here. You say here:

> User charges have only a slight effect on the delivered price of coal. For example, the average increase in the delivered price of a ton of coal on the Ohio River is 20 cents for a segment-specific ton-mile charge and 26 cents for a systemwide fuel tax. This is less than 1 percent of the total delivered cost of the coal.

Now, we have had an increase of 25 cents, as we think of the mining of surface coal, and an increase of 50 cents a ton on deep coal. That in a sense here begins to add up to 75 cents. Steam coal, as we know, is deep-mined coal.

Would you comment on that, because I am, frankly, worried because heretofore we have been talking of this fuel tax of 6 cents, now currently 38 cents. Will you help me in working this out?

Secretary **Lewis**. We could give you something in writing on that. Basically we do not look at the other aspect of the coal industry or the elasticity of demand of coal itself. We looked at it in relation to the contingent costs which will be added as a result of the user fee in inland waterways. I don't know whether we have the competence in our organization to make the other determinations or not. Do we, Dick, on the other items the Senator has asked about?

Mr. **Walsh**. We can certainly take any added amount that could be applied to a ton of coal and run it through our model to see how much additional coal might be diverted. I am not certain that it would be all that useful to us in thinking about steam coal for export.

You are quite correct that there is very little steam coal for export in our projections because our projections have been based upon the kind of world that existed in 1977. The more traffic that goes on the river, the lower the user charge is going to be for all commodities on the river. If we can look forward to healthy volumes of steam coal moving on the river, we are all going to be better off, including all waterway users.

Mr. **Trent**. Senator, if I might just add, DRI, Data Resources in Boston, was one of the contracting companies that provided the information for the study. DRI, together with the Chase and Wharton School, have the three most sophisticated input-output models available in making economic projections. So some of the information that you requested was put together and has been considered as a part of the process, and more might be available.

Senator **Randolph**. I thank you, Mr. Secretary, and your associates. I would not indulge in pleasantry, but I do indulge in truth. You are a good member of the Cabinet. I commend you for the record of what you are doing and attempting to do. The subject matter is a very, very complex one and has direct bearing on what we think is the well-being of the American people in travel and the transportation aspect of our daily life.

Secretary **Lewis**. Thank you very much, Senator.

Senator **Abdnor**. Thank you, Senator.

Just one quick question, if you can give me a yes or no. Do you foresee in the attempt to recapture the construction costs of projects and also the maintenance costs it could possibly force the increase of barge costs to become so great it could possibly put them out of business? I think this committee arrived at a conclusion something like that in the deepwater seaport bill we put out. We actually resorted to caps because of this. Now, could that happen here?

Secretary **Lewis**. You are talking about the barge companies themselves?

Senator **Abdnor**. Yes.

Secretary **Lewis**. The answer to that is no.

Senator **Abdnor**. The rate wouldn't become so great that it would put them out of competition with railroads?

Mr. **Walsh**. Senator, mom and pop barge companies probably come into and go out of business in fairly sizable numbers every year. Larger companies also change hands and they have the same kind of business misfortunes.

Senator **Abdnor**. That might be. But that has been going on with the——

Secretary **Lewis**. To answer your question specifically, the projection we have is if these things are imposed October 1, 1982, yes, there is going to be some shift in the manner in which materials move.

Senator **Abdnor**. There will always be barges.

Secretary **Lewis**. Basically we think long term the growth is there and it will not be damaging to the industry but will actually enhance its ability to be competitive.

Mr. **Trent**. Senator, as part of the scenario in putting this study together we looked at increases that would be undertaken by the railroad industry and what that impact would have on the share of cargo that would be transported by waterways as well as the railroads. We looked at no increase up to 100 percent of the differential increase. The indication was that after a period of time cargo on inland waterways would continue in growth in the same way under all three of the scenarios.

Secretary **Lewis**. That is part of the study.

Senator **Abdnor**. I am sure we can see by the deliberations on this subject we will be coming back to you people for a lot of other questions that are going to come up in our mind here.

Senator Domenici?

Senator **Domenici**. Senator, I just want to make a couple of observations. My good friend, Senator Randolph, raised the issue of the added fee for black lung. As you know, Senator—I am not telling you anything I didn't say on the floor—I did not support that because I don't think the black lung fund as presently interpreted is really a fund that pays our miners when they really have contacted job-related disease. I think the way it has been structured, it is a premature pension plan. That is my version, nobody else's.

But it is amazing, if I put the pencil to what is being proposed here and spread it out over 4, 5 years where you don't put it in right quick, it doesn't have nearly the impact of the 50 cents a ton that was put on to make a bankrupt black lung fund solvent. Yet, it is very interesting. I didn't hear the very lengthy economic debate with reference to the impact on its ability to continue to compete in the foreign market. I am not saying no one made it.

But I think it will become the focal point in every commodity here that we are rendering it less competitive. That bill took about 3½ hours on the floor of the Senate, my recollection, and the only opposition was why do we need it when we don't have a very good black lung fund.

It would be interesting if we would have had the years of debate on that with reference to the economic impact that we will obviously have with reference to a much lesser charge.

Having said that, Mr. Secretary, for the record, you have indicated that this fee proposal is a fee for the future and for the longevity of issues involved in all the modes of transportation. I take it that your commitment to get it done does not mean that you insist that it be put on in toto the first year. Am I fair in saying that?

Secretary LEWIS. Senator, it is our recommendation that it be put on in toto October 1, 1982. It is also our understanding in working with this committee what we recommend may not be what finally comes out of the committee.

Senator DOMENICI. I would want to say for the record, I have introduced many months ago, a bill that would phase it in over 5 years and would recoup 50 percent of the capital improvements and 75 percent of the O. & M.

I am not one who does not understand the problems up here. While a 5-year phasein that I am talking about seems reasonable to me, I made the point that President Roosevelt 40 years ago recommended it. I just hope in talking about phasing it in we are not talking about waiting for a President 40 years from now to have the benefit of the full imposition. But something reasonable seems to this Senator to be appropriate.

Secretary LEWIS. Senator, we would be pleased to work with the Congress on some of the suggestions you are making.

Senator DOMENICI. I have one last question. Would you for the record supply the ownership of the barge companies with their capacity, just so some of us who might be concerned about ma and pa operations would understand from whence the major portion of the barges come in terms of ownership. I assume we will find Texas Gulf, United States Steel, Ashland Oil, and most of the major chemical companies are the parent companies of a majority of the barges that are on our waterways.

Secretary LEWIS. We will supply that information for the record.

Senator DOMENICI. I appreciate that. Thank you very much.

[The information requested follows:]

MAJOR MISSISSIPPI RIVER SYSTEM CARRIERS

COMPANY	[1]TOWBOATS/TUGBOATS	[2]EMPLOYEES	[2]REVENUE FREIGHT CARRIED (MILLIONS TONS)	[2]REVENUE (MILLION $)
American Commercial Barge Line	34	284	18.1	70.6
Ohio River Company	31	665	23.1	36.2
Dixie Carriers	26	241	7.3	16.0
Inland Tugs	22	- -	- -	- -
Valley Line Company	21	431	10.6	28.5
Union Mechling	19	483	6.1	34.1
Ingram Barge	18	232	5.3	17.9
Warrior & Gulf Navigation Co.	18	- -	5.9	16.4
Ohio Barge Line Co.	15	243	7.3	30.5
Chotin Transportation Inc.	13	- -	- -	- -
Federal Barge Line/Gulf Canal Line	10	309	4.8	21.7
Igert	9	122	3.0	3.5
Arrow Transportation	6	104	2.7	4.3
Security Barge Lines, Inc.	6	129	1.4	6.0
Midwest Towing Co.	5	300	5.2	7.9
Sioux City - New Orleans Barge Line	-	262	3.4	14.5

Note: Table ranks carriers in terms of number of towboats/tugboats owned. Listing excludes private carriers.

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[1] Data from Transportation Lines on the Mississippi River System and the Gulf Intracoastal Waterway, 1978 - Transportation, Series 4, Corps of Engineers, U.S. Army.

[2] Data from Interstate Commerce Commission Annual Report on Transport Statistics in the United States (1975), Part 5, Carriers by Water. (Revenue freight and revenues reflect total regulated and non-regulated carriage.)

CORPORATE OWNERSHIP OF MAJOR INLAND WATERWAY CARRIERS

Corporation	Inland Carrier
East Texas Gas Transmission	American Commercial Barge Line Co. (1)
	Commercial Transport Corp.
	Inland Tugs Co.
	Southland Towing Co.
Chromalloy American Corp.	Valley Line Co. (1)
	Missouri River Barge Lines, Inc. (2)
	Sabine Towing and Transportation Co., Inc. (2)
	Security Barge Line (1)
Midland Enterprises, Inc. - Eastern Gas and Fuel Associates	Ohio River Co. (1)
	Orgulf Transport Co.
	Chotin Transportation, Inc. (2)
	Coastal Towing Corp.
U. S. Steel Corp.	Ohio Barge Line, Inc. (1)
	Warrior and Gulf Navigation Co.
	U.S. Steel Corp. (3)
Dravo Corp.	Union Mechling Corp. (1)
	Dravo Corp. (3)
Pott Industries (acquired 1977 by Houston Natural Gas Corp.)	Federal Barge Lines (1)
	Gulf Canal Lines (1)
Kirby Industries	Dixie Carriers (1)
	Chemical Towing Co.
Cargill	Midwest Towing Co. (1)
	Cargo Carriers, Inc. (2)
Champion International Corp.	Arrow Transportation Co. (1)
Olin Corporation	Nilo Barge Line (2)
Consolidated Leasing Corp. of America	Wisconsin Barge Line, Inc.
Peabody Coal	Mid-America Transportation Co. (2)
	Power Transportation Co. (2)
	Peabody Coal Co. (3)
	Continental Navigation Co. (2)
Tampa Electric Co.	Gulf Coast Transit Co.
	Mid-South Towing

Parent Corporation	Inland Carrier
Ingram Materials Inc.	Ingram Corp. (1) Ingram Barge Co. (1), (2) Ingram Materials, Inc. (3)
Henry Crown & Co.	Sioux City and New Orleans Barge Lines (1)
C.F. Industries, Farmers Grain Dealers Assn. of Iowa, Farmers Union Grain Terminal Assn., Illinois Grain Corp., Missouri Farmers Assn., and St. Louis Grain Corp.	Agri-Trans Corp. (2)
Phillips Petroleum Co.	Alamo Barge Lines (2) Alamo Chemical Transportation Co. (2) Alamo Water Transportation Co. (2) Phillips Petroleum Co. (3)
Ashland Oil	Inland Towing Co. (2) Thomas Petroleum Transit (2) Ashland Oil, Inc. (3)
Consolidation Coal Co.	Twin Rivers Towing Co. (2) Consolidation Coal Co. (2)
Seley Power, Inc.	Seley Barges, Inc. (2)
Private (3)	Agrico Chemical Allied Chemical Corp. Amoco Oil Co. Archer-Daniels-Midland Atlantic Richfield Co. Baroid Div., N L Industries BSAF Wyandotte Cor. (Wyandotte Chemicals) Bunge Corp. Cities Service Consolidated Grain and Barge Co. Continental Oil Co. (private and exempt) Diamond Shamrock Corp. Dow Chemical Dundee Cement E. I. DuPont, Inc. Exxon Co., Div. of Exxon Corp. FMC Corporation Freeport Sulphur Co. B. F. Goodrich Chemical Co. Gulf Oil Corp. Halliburton Co. Hooker Chemical Corp. Ideal Cement Co. Indiana & Michigan Electric Co., Inc. Ingalls Iron Works International Paper Co.

Parent Corporation	Inland Carrier
Private (3) (Continued)	Jones and Laughin Steel Corp.
	Louis Dreyfus Corp.
	Marquette Cement Mfg. Co.
	Martin Marietta Cement Co.
	Merichem Co.
	Mississippi Lime Co.
	Missiouri-Portland Cement Co.
	Mobil Oil Corp.
	Monsanto Co.
	Morton Chemical
	North American Coal Corp.
	PPG Industries, Inc.
	Peavey Co.
	Pennwalt
	Radcliff Materials, Inc.
	Reichhold Chemical Corp.
	Shell Oil Co.
	Standard Oil of Kentucky
	Stauffer Chemical Co.
	Tenneco Oil Co.
	Tennessee Valley Authority
	Texaco, Inc.
	Texasgulf, Inc.
	Triangle Refineries, Inc.
	Union Carbide
	Union Oil of California
	U.S. Gypsum Co.
	Universal Atlas Cement Co.
	Warren Petroleum Co.
	Weirton Steel, Div. National Steel

(1) Regulated Carriers

(2) Exempt (Contract) Carriers

(3) Private Carriers

Note: Since the major portion of the water carrier industry is unregulated this list may not reflect all barge lines and their respective corporate owners.

3/17/82

Senator **Abdnor**. Thank you very much, Mr. Secretary. We have had you here for a long period, but it has been very helpful to us. I hope we didn't delay you too long for the other meeting you said you have to attend.

Secretary **Lewis**. Thank you very much for having us.

Senator **Abdnor**. Our next witness is Dr. Alice Rivlin, Director of the Congressional Budget Office.

Dr. Rivlin, I am sorry we have kept you so long. You are a very valuable witness on this subject. I suppose many of the concerns that we expressed to Secretary Lewis will be much the same to you. We might be talking about them later on after your statement. I am sorry we have kept you so long because I know this is probably one of the busiest times of the year for you right now. But we are very appreciative of the fact that you have been able to stay with us and wait your turn here in front of us.

Senator **Domenici**. Mr. Chairman, I wonder if you would permit me to make one further observation. I apologize for taking Dr. Rivlin's time. But I intended to say, while the Secretary was still in the witness chair, that I hope the railroad representatives that are here don't take this Senator's position with reference to user fees to mean that I am completely overjoyed with the way the railroads, in particular some of them, are handling markets that they have captive.

I would like to say here, for the record, that I am so concerned about their lack of competition in some areas that this Senator might reverse, and I think I will, in the very near future his position on coal slurry pipelines. I believe if I can find a way to assure the water situation in the States of origin, that I think it is high time that some captive markets of the railroads that are shipping coal have some competition. So that the record will reflect that I don't think anyone has a lock on equity and that I don't think what we do in the inland waterways will solve many of the inequities, or all of them, but will solve many of them.

I hope that the record will reflect that they will understand my genuine concern in that area. I thank you, Mr. Chairman.

Senator **Abdnor**. Senator, I am happy to hear you say that. I know you are going to endorse the Esu project which South Dakota will be applying for in a few months.

Now, Dr. Rivlin, again let me welcome you and your people to the committee and ask you to proceed with your testimony.

STATEMENT OF HON. ALICE RIVLIN, DIRECTOR, CONGRESSIONAL BUDGET OFFICE, ACCOMPANIED BY DAMIAN KULASH AND KENNETH RUBIN

Dr. **Rivlin**. Thank you, Mr. Chairman. I am delighted to be here. I have with me this morning at the table Damian Kulash, who heads the Transportation Unit in our Natural Resources and Commerce Division, and Kenneth Rubin, who has worked on the waterway problem.

I am very pleased to appear before your committee this morning as you discuss increasing fees for using the Nation's inland waterways. During fiscal year 1982, the Federal Government will spend $770 million to build, operate, and maintain the inland waterways.

Users, however, will pay back only a small fraction of this amount through fees. Two bills before this subcommittee—the administration's proposal—amendment No. 627—and the Domenici amendment—amendment No. 32—would increase waterway user fees.

In the Congressional Budget Office's assessment, higher waterway user charges would help promote the more efficient Federal investment policy for waterways, as well as more efficient use of the Nation's transportation resources. This morning I would like to comment on several related topics—the same ones I think the Secretary has been over.

THE ECONOMIC RATIONALE

First, on the economic rationale for user fees.

The Federal Government finances many investments either because of the substantial national economic benefits that result or because only the Federal Government can supply the authority and resources needed. When the benefits of such investments are very widespread, having taxpayers in general bear the costs is appropriate. When an investment benefits a relatively small and identifiable group, charging the costs to the specific users may be more appropriate. In other modes of transportation, users carry much of the financing burden. Such has not been the case for inland waterways, although it probably could—and should—be.

Waterway user fees have three clear economic advantages. First, if shippers and barge companies know that they will have to repay any expenditures made on their behalf—such as for canals and locks—they will have a greater incentive to work with the Government to develop sound waterway investments. Second, to the extent that users of all modes of transportation paid back Government expenditures made on their account, shippers would be encouraged to use the most efficient form of transport. In recent decades, the trend has been to reduce Federal transportation subsidies; this trend will probably accelerate in future years under growing budgetary pressures. More economical distribution of traffic among the various modes will almost certainly result. Third, waterway user fees could help to reduce the need for new construction by making more efficient use of existing capacity. Rivers and locks would be less congested by traffic that places little value on the services—that is, users unwilling to pay the fees.

THE USER FEE PRINCIPLE—THEORETICAL PROBLEMS AND PRACTICAL EXAMPLES

Developing the most efficient user charges is a difficult task. Let me skip over this section because it has been discussed at considerable length this morning and you are interested in moving on. Instead, let me move on to the treatment of inland waterways compared with other modes.

TREATMENT OF INLAND WATERWAYS COMPARED WITH OTHER MODES

Compared with other modes of freight transportation, inland waterways are heavily subsidized and will continue to be so even when the waterway fuel tax rises to 10 cents per gallon in 1986, as required by current law. Both of the proposals before this subcommittee would reduce the subsidies to inland waterways and make them more comparable to existing rail and truck subsidies. Indeed, since these competing modes will themselves probably be less amply subsidized in future years, the two proposals under consideration now are consistent with a broad Federal policy of charging the users of transportation services for the costs that the Government bears on their behalf. They do not appear to us to put waterways at a disadvantage relative to other modes; rather, they help correct a present distortion created by waterway subsidies.

Relative to volume of traffic, domestic inland water transportation received the highest subsidy of any freight mode in 1980—3.9 mills per ton-mile, which is substantially above the 2.2 mills per ton-mile received by railroads and the 1.8 mills per ton-mile received by trucks. These are laid out in table 2 of my prepared statements. Pipelines, which carry more ton-miles than either barges or trucks, receive no Federal capital or operating subsidies.

Present waterway subsidies are particularly large relative to the total cost of operations. In 1980, Federal subsidies covered more than one-fourth of all inland waterway shipping costs. This is more than four times rail subsidies and almost 30 times more than truck subsidies.

Both the administration bill and the Domenici amendment would sharply reduce waterway subsidies by means of user fees. Under the administration bill, waterway users would pay fees that would rise to about 2 mills per ton-mile in 1987. Waterway users would continue to pay less than the Government spends, leaving a subsidy of 0.7 mills per ton-mile. This subsidy is smaller than those now received by railroads and trucks, although subsidies to these modes will also probably decline. In terms of overall financial importance, the administration proposal would reduce the waterway subsidy to about 7 percent of the total cost of waterway operations—still more than current rail and truck subsidies.

The Domenici amendment, which would impose lower user fees than the administration bill, would result in subsidies of 1.1 mills per ton-mile, or about 11 percent of total costs, by the time it was fully operational in 1987. Thus, if this plan were enacted, waterways would still have a larger fraction of their costs covered by federal subsidies than would competing modes but would receive smaller subsidies per ton-mile than those now going to trucks and railroads.

These comparisons, Mr. Chairman, are rough generalizations. There are a lot of definitional problems; we could go into how we define things in the question period, if you are interested. But I think the point is that, however the definitions come out, the rough story shown in the aggregate statistics in table 2 can serve as an approximate yardstick for measuring relative subsidies to each mode. This measure shows that waterways now receive the largest subsidies of any mode of freight transportation, and that either of the proposals before this subcommittee would place waterways on a more comparable footing with railroads and trucks.

ESTIMATED REVENUES

Next, on the estimated revenues. Increasing user fees in general is one important strategy for reducing the large Federal deficits now projected. Roughly $10 billion per year now comes from user fees of all sorts. A series of examples of increased or new user fees that could raise another $7 billion per year is presented in the recent CBO report, "Reducing the Federal Deficit: Strategies and Options." Higher waterway user fees could generate $1 billion to $1.7 billion over the 1983–87 period. On the basis of the projected schedule for waterway projects currently authorized, the administration bill would raise about $300 million in 1983, or about 40 percent of the $770 million projected to be spent on waterway subsidies in 1982, increasing to almost $400 million by 1987. The Domenici amendment would generate lower amounts, about $76 million in 1983 and more than $300 million in 1987.

The amount of revenues generated under the administration proposal would depend on when projects were opened to through traffic. For example, in the CBO calculation, no increased user charges are added for the Tennessee/Tombigbee Waterway until 1987, when the waterway is scheduled to be open. That accounts for the substantial jump in the revenues in table 3 between 1986 and 1987. In addition, the administration bill would recover all of the cost of waterways that are now under construction but not yet open. This has the effect of charging waterway users retroactively for construction investments made prior to 1983. If the administration proposal were modified to exempt from recovery funds expended before 1983, the revenue generated over the 1983–87 period would be slightly less—around $1.5 billion, or about $132 million less than under the administration bill as it is now written.

IMPACTS ON SHIPPERS AND CARRIERS

Turning to the subject of the impacts on shippers and carriers—the administration bill, which would increase the average waterway operators' total costs by around 16 percent in 1990, could curtail traffic on some rivers. These effects would be greatest if the fees were charged as specific tolls for separate segments. Under such segment tolls, the tolls on certain low-volume segments would have to be very high to offset the costs. The Kentucky, Apalachicola/Flint and Ouachita/Red Rivers would face the highest segment charges. Navigation on these rivers would therefore probably cease altogether. Similarly, traffic on the Tennessee/Tombigbee route would probably be unable to cover its costs.

Alternatively, user fees could be set at a uniform level across the entire waterway system, using either a fuel tax on a tax of a set amount for each ton-mile hauled anywhere on the system. Under such a systemwide fee arrangement, the regional disparities would be smaller because tolls would be uniform throughout the waterway network. As a result, no segments would face charges high enough to force them to close. This would mean, however, that the Federal Government would continue to pay the operating and maintenance costs of those segments, and that these added costs would be passed on to users. As a result of these higher charges, the amount of total traffic diverted would be greater.

Shippers of certain commodities would probably bear the greatest impact of increased waterway user fees. Coal, for example, as we discussed earlier, accounts for roughly one-fourth of all tonnage on the Nation's inland waterways. Much of this coal moves relatively short distances, however, and is received by utilities or industries that have made substantial investments based on the availability of waterborne coal. As a result, few of these receivers would have any reasonable alternative sources of supply. Thus, barge operators could pass along virtually all of the increased user fees to shippers. Since much of the coal goes to utilities, the fees would ultimately get passed along to electricity consumers, particularly since many utilities have automatic surcharges to recover their increased fuel prices. As a result, consumers in affected areas could end up paying about 1 percent more for electricity.

Grains and soybeans account for about 10 percent of all barge tonnage. Since these commodities are light relative to their volume, and since they move quite long distances, these crops account for a larger share of barge revenues. The impact of increased waterway user fees on farmers would fluctuate, however, because of many factors—including variations in domestic grain production and export demand, and railroads' and truckers' differing responses to increased barge rates. The experience with increased fuel prices during the last several years offers a few insights concerning these reactions. In particular, it suggests that railroads would raise their rates as barge rates went up. But barge operators themselves absorbed much of the short-run impact of higher fuel prices, largely because they had excess capacity and were willing to carry grain as long as the rate kept ahead of the additional operating costs.

The degree to which higher waterway user fees would fall on grain farmers could vary widely. The user fees in the administration bill would increase the transportation costs for grain by about 6 cents per bushel in 1990. Assuming that half of this is borne by farmers and the other half by owners of grain elevators, consumers, truckers, or waterway operators, then farmers would absorb about 3 cents of the increase. With corn, wheat, and soybeans now selling at $2.40, $3.70, and $6.05 per bushel, respectively, this represents about a 1-percent loss in gross income for corns and wheat and about a one-half percent loss for soybeans. In other terms, for a representative commercial family farm producing 400 acres of corn and soybeans each year, these user fees could cause a loss of gross annual income of about $900. For smaller family farms that rely heavily on nonfarm incomes, annual gross income from farming would decline by around $150.

When the market for grain exports is slack—as it is now—many water carriers would probably have excess capacity; thus, competitive pressures would probably force them to absorb part of any increases in waterway user fees. Alternatively, when the market for export grain is expanding, as it was in the early 1970's, water carriers would probably be able to pass along any increases in user fees to handlers and shippers. These firms, in turn, would probably be able to pass much of this along to foreign consumers. To whatever extent that this happened, the burden of increased user fees could be substantially transferred to countries that import U.S. grain. Although many factors influence who will bear the burden of higher waterway user fees, grain farmers would hardly have to shoulder the burden alone.

Mr. Chairman, I would be happy to answer any questions.

Senator ABDNOR. Thank you very much for that statement, Dr. Rivlin. I do have some questions.

As an economist, can you comment on the approach DOT took in analyzing the impact of fees and what are its strengths and weaknesses in this study?

Dr. RIVLIN. On the 205 study?

Senator ABDNOR. Yes.

Dr. RIVLIN. We haven't examined all of the supporting documentation yet. It seems to us to have been a generally competently handled study.

Let me have my colleagues comment in more detail on that.

Mr. KULASH. Mr. Chairman, like everyone else, we have had only a couple of weeks to look at this report. Our first impression, as Dr. Rivlin indicated, is that they have allocated their resources in a sensible way and have answered the important questions using fully up-to-date techniques. From a first glance, we feel that it is a professionally competent work.

Senator ABDNOR. Again, I readily admit I am a bit partial when it comes to agriculture because I understand that fully. But do you really believe that elevators and barges are going to pick up part of this increased cost of shipment? Is there anything in there that is going to make them do it, I mean that would cause this to happen?

Dr. RIVLIN. Well, they want to get the business, that is the main thing. It will, of course, depend on the state of the market. It is very hard to say how those costs would be shared. Certainly some of it will fall on farmers, as we indicated. But on the basis of past experience, there is certainly evidence that part of it will be picked up by the other parties in the transaction.

Senator ABDNOR. I don't mean to give a lecture on the farm picture right now because I am sure you have had to deal with it. But I don't know if they have ever been in a more depressed era. You have heard this in questions and answers with Secretary Lewis. But you are fully aware that there is no way in the world farmers can pass on the added cost. Senator Domenici brought out the 50-cent tax on coal. You were talking here about higher electrical rates. They have to absorb this. When they are at the breaking point, any cost shared is quite a severe cost. When you are talking about not farmers' worth but what their cash flow amounts to, it has never been at a lower rate over the last many years than it is today. Any additional cost can be quite severe.

How did you arrive at those figures of what it would cost the farm at $900 per year, assuming average yield or something?

Dr. RIVLIN. Yes, our estimate of the 6 cents per bushel was then used to make an estimate of what that would mean in terms of a farm of average size, and with an average yield. These were just to illustrate potential income problems.

Senator ABDNOR. When you are talking about the added cost to the gross, that is one thing. But when you apply that added cost to the net, it gets to be a very, very large item. I truly mean that. I know something about it. Sometimes I think until you are really associated with that particular area of the economy one just has a hard time realizing they do go through a lot of dollars. But the final answer is how much do they have left after they pay off the total expenses they are incurring. It is consistently going up, and we are bragging to the rest of the world how cheaply we feed our people here. It seems to me every time I pick up an article I read where we hope to make additional sales to other countries, which is important to all of our country and the balance of trade. But always there is an additional statement in the article, Doctor, that says this in no way will make consumer prices go up. One of these fine days consumer prices are really going to have to go up if these people are going to be in existence.

I would have no concern at all if I really thought they could absorb the cost and still get along. But this is getting to be quite a great concern of mine personally and the area that I represent because I know it so well. It might be equally true of the other commodities that go up and down the river, maybe with the barge people themselves.

Speaking of barge transportation, I asked this question to Secretary Lewis, and I would ask it to you: Do you foresee a possibility that in trying to recapture the total cost of both construction and maintenance that we might be placing the rate so high that we do considerable damage to that form of transportation? If so, do you think we ought to do something like—I am sure you are aware of the action this committee took in the case of deepwater seaports where we placed a cap so they all could stay in the business. I guess we are really talking about subsidies in one form of transportation versus another.

I am also going beyond that point to the place, pretty vital I think to our country, our economy, that we retain all of our forms of transportation. I am just wondering if we don't approach this very cautiously, that in our attempt to recapture the total costs of this we could possibly price the barge industry out of business. Do you think that could happen, or have you thought about that?

Dr. RIVLIN. Yes; we have thought about that. I think this is a very complicated problem. In general, as you look at the longer run future of waterway transportation, we would agree with what the Secretary said, that it looks like a pretty healthy industry. With or without user charges, the volume of traffic on inland waterways in general is likely to rise appreciably in the future.

Clearly, the effect on particular segments depends very heavily on how you assessed the charges. If you were to put the entire user charge on a segment-by-segment basis—which the administration is now proposing—it would stop traffic on some very high-cost, low-volume segments of the system. That might be the most efficient way to handle the situation in an economic sense, but it has clear costs for those areas and for the barge operators that operate in those areas. If one were to spread part of both the operating and maintenance costs on a systemwide basis—as the administration is suggesting—that would be somewhat less efficient, but it would have a less devastating effect on particular regions.

I think this is what the committee has to weigh, and it is a difficult thing. Clearly a substantial set of user fees will raise costs substantially and may put some marginal barge operators out of business. We would expect over the longer period, however, that this would be a quite healthy industry, and that it might well improve as it became more efficient.

Senator **Abdnor**. Thank you.

In your review of this study, and I suppose other factors you looked at, do you believe that under the present situation some areas are forced to pay greater rates for their transportation, using other forms of transportation, directly because of the barge subsidy that goes with water transportation? In other words, some areas try to stay competitive with barges that are close to the waterways? That form of transportation goes ahead and charges a higher rate farther away?

Dr. **Rivlin**. Some other place.

Senator **Abdnor**. Is that occurring?

Dr. **Rivlin**. It seems very likely that competition operates that way. I will let Damian comment on that.

Mr. **Kulash**. To the degree that subsidized barge competition forces railroads to keep rates down when railroads are in direct competition within the area served, then railroads are pressured to make a greater contribution to their fixed costs from the other operations where they do not have such subsidized competition. So in that sense, the current barge subsidies could force——

Senator **Abdnor**. I agree with you it seems that way. But do you think we could find some figures and facts that would clearly point to that?

Mr. **Kulash**. I believe it is very difficult to get into the railroads' books and try to figure out what their movement-specific costs are. I just don't think such accounts are public information.

Senator **Abdnor**. We will see if we can. I don't know if we can. Senator Domenici?

Senator **Domenici**. Thank you, Mr. Chairman.

Dr. Rivlin, I want to commend you and the CBO for this study, the results of your study, and also for the entire CBO section on user fees and subsidies in the country, which is a far broader subject matter than the one at issue. In particular I want to commend you for the way you have addressed the obvious issues that are before us. We will have to deal in our own way with the effect on a bushel of wheat, whether we are going to hurt our farmers or not. It appears to me we are going to resolve that. My observation is that we can't continue much longer and have a viable agrieconomy if the farmers of this country have to continue to absorb what they are absorbing. We aren't going on much longer with them selling below actual cost.

It would appear to me that we must address that issue at the congressional level with some new and innovative approaches. If and when we do, and it is obvious to me that for about 5 years they have been borderline, without any question, and it is piled up on them right now, but ultimately it is ridiculous for the United States to continue a policy that permits foreign countries to come into that grain market, kind of in a willy-nilly manner, taking advantage of the extremely low prices that are going to bankrupt our farmers. We are going to get to the point, somehow or another, it appears to this Senator, when they actually pay a good market value for the crops they are buying. I am not smart enough to know how, but it is going to happen, sooner or later; in which event, it appears to me that the flip side of the coin is that they would be paying their fair share of the transportation costs in this country if we had an inland waterway fee that would build into that cost of commodities.

Now, if that was to occur, and believe me, I think it is going to happen sooner or later because that world market is taking advantage of the situation, rightfully so, the way we conduct business, to the detriment of the farmer, but if it occurred, then would it not be a benefit to our national economy if they were paying that added cost of user fees as part of the cost of the commodities they buy? Wouldn't that have a positive international macroeconomic effect on the United States?

Dr. RIVLIN. Yes, it would, Senator. It would be a way of having a more efficient transportation system and having the full costs reflected and paid by the consumer of the product.

Senator DOMENICI. In terms of your summary on page 8, a comparison of the Federal subsidies to freight transportation, I raise this issue because as I indicated, I believe we will in one way or another solve the problem of who gets hurt in the American marketplace. I frankly believe the bigger issue that will continue to haunt us is the constant allegation by the barge companies that before you do anything to us, make sure you know how much you are subsidizing everybody else. In fact, they would like to go back and make sure we recapture when we opened the West and gave the railroad sections of land. We may have to do that. I assume you have information on that one, too, if they would like you to produce the evidence of how many decades of subsidized mail cost they gave us in exchange for that. You could do all of those if we asked you, could you not?

Dr. RIVLIN. Well, I think it would be a little difficult to reconstruct the whole history of the opening of the transportation system of the country.

Senator DOMENICI. Now, your railroad, 1980, 6.2 percent is Federal subsidy as a percent of total cost. The waterways are 29.5. Can we round that to 30? You are telling us that of the total costs, 30 percent is subsidy today for the waterways? Is that what that statement means?

Dr. RIVLIN. Yes.

Senator DOMENICI. Take the cost of that—that is, servicing the cost of a barge, what they have to pay for people, and all that goes into barge operations. Thirty percent of that total package that goes into the marketplace is Federal subsidies?

Dr. RIVLIN. That is right. There are some complications about how you define it, but roughly speaking that is correct.

Senator DOMENICI. You have railroads at 6.2 and you have some questions about what should be in that. You have not looked at the entire Tax Code to see all of the tax expenditures or legitimate loopholes that are attributable to railroads. Let me ask, if you were asked to do that, could you do that for us?

Dr. RIVLIN. We could try.

[The information requested follows:]

Our estimate of railroad subsidies for 1980 included both of the tax expenditures specifically identified in Special Analysis G of the Budget of the United States Government, Fiscal Year 1982. These are the $320 million tax benefits that arise because railroad retirement pensions are tax free and a negative tax expenditure of $40 million attributable to the repeal of an earlier provision allowing rapid amortization of railroad rolling stock.

Not included, however, was the effect of so-called "betterment accounting." This method, currently used only by the railroad industry, allows a one-year write-off of the portion of investment representing replacement of capital. Any improvement in facilities is added to the railroads capital stock, however, and not depreciated. Although unfavorable to railroads during periods of capital expansion, use of this accounting method in recent years has generally reduced railroad income for tax purposes relative to what it would have been under regular depreciation accounting, thus reducing railroad federal income tax payments. Without access to internal financial records of the rail industry, the dollar amount of this benefit cannot be accurately estimated.

The 1981 tax cut calls for railroads to switch to depreciation accounting by 1986. During the transition period, the railroads will be allowed to write off whatever portion of their capital stock could have been depreciated if they had not been using betterment accounting. This amount is estimated by the General Accounting Office to exceed $17 billion. As a result, some observers have estimated that the railroads will not have any federal income tax liability for the next several years. This significant benefit was not included in CBO's estimate of 1980 subsidies.

Senator DOMENICI. In which event, you would have to compare those with what is generally given to business, because the last bill we passed with a tax loss sale lease-back may apply to railroads but it might apply to the parent company of a barge company, too, might it not?

Dr. RIVLIN. Yes.

Senator DOMENICI. Many of the other business expenditures that are general in nature would apply to railroads and would apply to Ashland Oil. So if we had to do that, we would get into a real contest of which applied to which. If we asked you to do that, you could run that for us with all the caveats and explanations; is that correct?

Dr. RIVLIN. We could work on it. I might come back to you and ask you to support me in my plea before the Appropriations Committee to get a larger staff.

Senator DOMENICI. We are already doing that in reference to some other chores you have.

Let me ask you, how could we put a little more substance, with Federal subsidies in a transportation system that is as intermodal as ours—railroads, airplanes, waterways, highways—how could we put some substance to the notion that subsidies distort investment decisions? You agree with that, do you not, looking at the transportation system in the country? That is one of the contentions you make.

Dr. RIVLIN. Yes.

Senator DOMENICI. Do you have any ideas, or your people, on how we might put a pencil to that and have some substance to it?

Dr. RIVLIN. I think there are two aspects to it. One is the general conceptual notion that if you do price something below its cost, that distorts the market, and you tend to get overuse of whatever it is relative to the true cost. For example, we overused oil when we were providing it below the world market price. Then, of course, the question is how much is this distortion in any given situation. Then you were into the kind of complicated estimates that we were just talking about to give a notion of what true cost would be without subsidy. One can get rough ideas.

I think with respect to the modes of transportation, the numbers are sufficiently disparate so that it is clear that inland waterways are being more heavily subsidized than other modes no matter how you add up the numbers.

Senator DOMENICI. You make another point that this Senator used when we finally passed the small fee that we have. I believe it more strongly now than I did then because when we had the discussion of superdeep ports in our country, you will recall you all did some study on it. We had all of this clamor around here of let's go ahead and get the Corps of Engineers to build two or three of these. America needs this desperately. That kind of turned around in this country one day when a market economist came in here and said get rid of the redtape and make sure we can get on with building these entities and manage them and have the authority to levy those fees and you will get the marketplace to see which of these ports they ought to put all of this investment into.

I contend in the past we have built some waterway improvements that are not justified in the marketplace at all. I am reminded of a couple that literally the principal use of the lockage is to transport, if you can believe it, sand and gravel. I don't think there is anybody who would believe that you ought to construct a major lockage system to deliver that kind of product. If you are, you ought to put the charge on it so that people would understand that this is not a reason to build a lockage system. There is probably sand and gravel somewhere much closer that they could use if you put that appropriate fee on that would be competitive.

I believe that the marketplace would be a good screener for us as to what we ought to build in the future, which should we re-remodel, which should we reimprove. If they look at the costs and say we are going to be paying for a portion of it, we don't really need it, put it somewhere else, not here, you indicated that your own way in this testimony.

There again, I don't know how you prove it. But could you tell us why you think that is relevant in the inland waterway system of this country?

Dr. RIVLIN. Well, just for the reasons you suggest. I think that if one is contemplating a major new investment in a waterway with costs passed along in higher user charges, that would encourage economic investment, for example, firms transporting sand and gravel might be unwilling to pay the user charges, and hence would place a lot less pressure to build such projects than if they were provided essentially free.

Senator DOMENICI. So the one thing that is missing in our approach to all of this, if we end up with a reasonable phased-in user fee that recoups capital, we have to in some way make sure we have tied the appropriation of new projects, which is purely an act of Congress, to this marketplace decision of which are really needed and what ought to be done, because that wouldn't necessarily follow if we obviously appropriate and we have more to spend in the fund itself, the decision could still not be as marketplace-oriented as perhaps this scheme should promote. Is that correct?

Dr. RIVLIN. I think that is right.

Senator **Domenici**. Do you have any additional notions on the process and changes in it that might make such dictates more the order of the day than what might occur?

Dr. **Rivlin**. If construction costs at least are to be paid for out of segment-specific tolls, this would help.

Senator **Domenici**. So that if you had both a general type levy and some more project-oriented levy, it would furnish its own economic cleansing to the process, while it may have some other problems. That is what you are suggesting.

Dr. **Rivlin**. That is right. I think if you were starting over—if you didn't already have an inland waterway system—you would clearly want to do it that way. The problem is you do have one. As with any past subsidy that people have relied on you have a problem in shifting to a fully unsubsidized system.

Senator **Domenici**. I thank you, Mr. Chairman.

Senator **Abdnor**. Thank you.

Senator Gorton?

Senator **Gorton**. Thank you, Mr. Chairman.

Dr. Rivlin, I am sorry I wasn't here to listen to your oral testimony. I have during the course of these previous questions been able to at least scan it. As Senator Domenici did, I should like to commend you on a very fine analysis.

Dr. **Rivlin**. Thank you.

Senator **Gorton**. As you know, it would be an analysis which would be much easier to follow to its logical conclusion if we were starting with a brandnew country——

Dr. **Rivlin**. Yes. That is always true.

Senator **Gorton** [continuing]. Without capital improvements, no urban areas whatsoever. The degree to which it is impacted by the fact that many of these capital improvements are in place and that much of our economy is based on the presently existing system is of course a major concern of this committee's and, obviously, of the entire Congress as we follow through on these recommendations from the President.

I think that your study is going to be helpful in answering those questions. But on page 12, for example, you say that if we were to use segmented tolls, those tolls would be so high on certain low-volume segments as to in effect close them down. You speak of the Kentucky Apalachicola/Flint and the Ouachita/Red Rivers systems.

Do I take it that you would not regard it as economically efficient in a Nation like the United States to impose such tolls as to close down completely a completed capital improvement?

Dr. **Rivlin**. As an economist, I would regard it as economically efficient to do that, despite some costs. One can never argue on grounds of efficiency for continuing an operation that isn't paying for itself. I think one has to argue on other grounds.

Senator **Gorton**. That comment, therefore, is a comment that even operation and maintenance of those systems is so great that tolls which would cover that operation and maintenance would close the system down, without any regard to the recovery of the cost of the capital improvement; is that correct?

Dr. **Rivlin**. I think that is probably right. Where you have a very low-traffic segment, the operation and maintenance tends to be unrelated to the volume of traffic on the river.

Senator **Gorton**. I omitted in that first question, of course, one other project which you mentioned in that paragraph which is somewhat better known than those first three. I see your next line says, "Similarly, traffic on the Tennessee/Tombigbee route would probably be unable to cover its costs."

Now, is that a statement that even when the Corps of Engineers has completed the Tennessee/Tombigbee, it is your view that the cost of maintenance and operation, without any capital recovery whatsoever, would be greater than the value of the waterway?

Dr. **Rivlin**. Damian, do you want to comment on that?

Mr. **Kulash**. Senator, the other three rivers mentioned in Dr. Rivlin's testimony already exist and are now in operation. The administration bill would charge them only for operations and maintenance, since the capital is by and large already expended.

In the case of the Tennessee/Tombigbee, amendment 637 as written would charge for both its operations and maintenance and its capital as amortized under the provisions of the bill.

Senator **Gorton**. Entire capital, is that already expended as well as that to be expended?

Mr. **Kulash**. Under amendment 637 as written, yes. Under the proposal that Secretary Lewis described this morning, he would exempt from this recovery any appropriations made prior to the 1982 Appropriations Act. That is, he would not recover any of the existing capital investment.

Senator **Gorton**. Under that proposal, would the statement that the Tennessee/Tombigbee would probably be unable to cover its costs be accurate?

Mr. **Kulash**. We have not examined it under those circumstances. We would be happy to take a look at that for the record, if you like.

[The information referred to follows:]

Using the Corps of Engineers projections of cost and traffic volumes, it is doubtful whether the Tennessee-Tombigbee Waterway could cover its costs under the revised Administration proposal, which would recover all costs of operations and maintenance plus post-1982 capital expenditures. The Corps of Engineers projects traffic at the capacity level of 29 million tons, annual operations and maintenance costs of about $11 million, and post-1982 construction costs of about $16 million, when amortized over 50 years as called for in the bill. Even assuming that all traffic travelled the full 232 miles of the system, this would require a fee of around 4 mills per ton mile—about a 50 percent increase in rates. This increase would divert some traffic to the lower Mississippi system and to other modes. While the extent of such diversion is difficult to predict, it means that the fee on the remaining, undiverted traffic will need to be even higher in order to recoup the required amount. Using a rough estimate of how large this diversion would be, drawn from the analysis in the Section 205 Study, we arrive at a post-diversion fee of 6 mills per ton-mile—which would raise shipping rates on the Tennessee-Tombigbee by 75 percent. This disparity appears so large, given the proximity of competing water and rail transportation, that it appears possible that Mr. Lewis' proposal could force the Tennessee-Tombigbee to close. To the extent that the Corps of Engineers projects of cost and traffic volume prove optimistic, the fees required to cover costs would be even higher than they are sketched above, increasing the likelihood that the Tennessee-Tombigbee would prove economically unviable.

Senator **Gorton**. I can't offhand think of any advice which would be more relevant to what we are going to be doing during the course of the next year than that. It would be appropriate to have neutral third party advice on that subject. I suppose I can go on one further, that I take it it would not be accurate to say traffic on the Tennessee/Tombigbee as reasonably projected would be incapable of covering even its operation and maintenance costs, if its operation and maintenance costs were directly charged against its costs, that they wouldn't use it, that it would be deducted?

Mr. KULASH. I am afraid I don't know off the top of my head.

Mr. RUBIN. Our calculations included both operation and construction costs. We made no separate assessment whether the operation and maintenance alone would close the gap. Again, we could probably go back and do that.

[The information referred to follows:]

Based upon the Corps of Engineers projections, recovery of operations and maintenance costs appears feasible. This policy would recover about $11 million per year, which would require fees of around 1.6 mills per ton-mile if all projected traffic paid the fee. Allowing for the fact that some of the projected traffic would be diverted if this fee was imposed, if appears that a fee of around 2.3 mills per ton-mile would yield revenues sufficient to cover the costs of operations and maintenance. This is equivalent to an increase of around 30 percent over the shipping rate excluding user fees, and such an increase and associated traffic volume appear feasible, assuming that the underlying Corps of Engineers projections prove accurate.

Senator GORTON. On another subject, Dr. Rivlin, you deal extensively with the costs to the grain market in general—I will put it in that general fashion—of these administration proposals. You attempt at least to estimate under certain circumstances how that would be divided among the producers of the grain, the handlers of the grain, and the customers of that grain. You do not, however, at least in your written testimony, include any analysis as to how those burdens will vary from one waterway system, from one part of the country, to another under any of these proposals.

Even if you were working on a ton-mile basis, obviously some grain moves much further than other grain does. Are you able to supply us either now or at some later time with at least general regional impacts—that is, the Dakotas, the farther East-Midwest, the Pacific Northwest—with the waterway systems that they use, as to that impact and its possible effect on those regional economies?

Dr. RIVLIN. We don't have a vast staff to throw onto this project. We could do the best we could, working with the analysis at the Department of Transportation and the Department of Agriculture, to give estimates to a specific question.

Senator GORTON. I am just as parochial in this regard. My interest in this question is much greater as it relates to the Pacific Northwest and it is more academic in other parts of the country. I suspect the chairman would probably have a specific interest in a different part of the country. But obviously those are judgments that each of us as a representative of a particular group of people is going to have to make as we determine how to react to this proposal. Of course, I think each of us would be particularly interested in your very last paragraph, and that is some rough estimate as to the type of economy and demand for grain worldwide and the number of years in the last 10 or 20 years in which the demand was great enough so effectively all of those additional costs could be passed on to customers rather than to producers and the middleman.

Dr. **Rivlin**. We would be very happy to work with the committee to see what would be the best way to get the information that you need and which parts of it we could supply.

Senator **Gorton**. Thank you.

Thank you, Mr. Chairman.

Senator **Abdnor**. Thank you very much.

Dr. Rivlin, a great many questions come to mind, but it is 12:15. I know you have many things to attend to, as we do. So I can assure you, if you don't mind, we are going to submit a number of questions to you. We can already see how we are trying to involve you in this because this is such a major issue and we want to be fair about it. So we will thank you for appearing.

Before I adjourn this meeting, I want everyone in the room to know we plan to have additional hearings on this issue. I intend to try to get out in some areas of the country as much as I can, and the committee also. We would like to have letters—I want to say this to the people here—we would welcome letters from anyone or any group that wants to testify. We will certainly try to accommodate everyone as much as possible. So all of you, I want you to know that because we want to be sure of what we are doing. This is a major step. It has to be a proper and correct step.

Thank you very, very much for appearing here.

Dr. **Rivlin**. Thank you, Mr. Chairman.

[Whereupon, at 12:15 p.m., the subcommittee was recessed, to reconvene subject to the call of the Chair.]

[Prepared statements, responses from Ms. Rivlin to written questions, and an excerpt from the DOT study follow:]

STATEMENT OF SECRETARY OF TRANSPORTATION BEFORE THE WATER RESOURCES SUBCOMMITTEE OF THE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE, FEBRUARY 10, 1982

Mr. Chairman, Members of the Committee:

In my remarks today, I want to address three matters:

1. First, the role of cost recovery in transportation policy;

2. Second, the results of the Section 205 Waterway User Charge Study; and

3. The Administration's recommendations for the implementation of cost recovery on the inland waterways,

Transportation Policy and the Recovery of Federal Costs

The recovery from users of the Federal costs of building and operating public facilities has long been established and accepted as sound public policy, especially in the field of transportation. Both the Congress and the Executive, in law and in executive order, have again and again confirmed that policy. In most modes of transportation which make use of Federally-financed facilities--the aviation and highway modes, for example--the cost recovery principle has long been honored.

The exception, of course, has been the inland waterway system. Despite repeated proposals, dating back more than forty years, cost recovery did not come to this mode until three years ago with the enactment of the Inland Waterway Revenue Act of 1978. (The St. Lawrence Seaway, it should be noted, has always recovered full operating and maintenance costs.) This law provided for a fuel tax on commercial barge operations starting at four cents a gallon last October and rising to ten cents a gallon in FY 1986, and created an Inland Waterway Trust Fund. Although its recovery level is modest in relation to the level of Federal outlays, this Act was a particularly important step forward in that it established that the principle of cost recovery should apply here too. To underscore this, the Congress directed that a study be undertaken to provide information on which to base a permanent cost recovery system for the national waterways.

Two major concepts underlie the cost recovery principle. One has to do with the matter of fairness or equity in the distribution of the burden of payment for services and facilities provided by the Federal government. It seems to be only simple justice that profit-making businesses should pay for the facilities they use rather than having the general taxpayer bear their costs. There is just no good reason for government, i.e., the taxpayer, to subsidize such operations, unless it serves truly overriding national objectives. In the case of a profit-making, freight-carrying mode, it is difficult to see what that objective could be.

The other basic concept relates to the effective functioning of the free marketplace as the mechanism which should decide how much and which traffic should go by each mode. When not distorted by subsidy or arbitrary regulation, the marketplace lets shippers decide how much of which commodity they will ship by which mode, with decisions based solely on each mode's respective cost and service characteristics. In order that the market mechanism be a truly efficient decisionmaking device, the transportation rates that face the shipper as he makes his decisions must accurately reflect the costs of each mode. To the extent that any portion of a carrier's costs are picked up by the Federal government, the rates that he quotes will understate the true cost of moving goods by that mode.

Whenever part of the true costs of any mode becomes masked by subsidy in this way, inefficiencies begin to occur. Real efficiencies in other modes are lost as traffic shifted by the artifically low rates of the subsidized mode actually moves at greater total costs.

I am well aware that many critics of the Administration position will agree to these principles but feel that they are not being applied consistently and evenhandedly to all modes. Indeed, some have argued that the waterway operators are being singled out for especially harsh treatment while other modes would continue to be subsidized. This is not the case. A number of people have pointed to past Federal aid to the railroads in the form of 19th Century land grants, emergency loans, grade crossing programs, and so forth.

I submit that this is not a particularly helpful way to view this matter. Throughout the nation's history, the public interest in transportation development or assistance has been perceived in many different purposes or objectives. These have included transitional assistance to financially ailing private transportation carriers whose continued services are deemed vital to other parts of the economy, the creation and exploitation of new transportation technologies, the enhancement of safety, regional economic development, the revitalization of our cities and so forth.

The point here is that because the public interest, as determined by the President and the Congress, is deemed to require financial assistance to one or another of the modes of transportation, it does not follow that there should be offsetting assistance given to competing modes or carriers simply to prevent a change in the intermodal competitive balance. When, for whatever reason, we temporarily subsidize one mode or carrier, we should not compound the problem by continuing or increasing an unwarranted subsidy to another mode or carrier, all at the expense of the general taxpayer, simply to preserve some arbitrary standard of intermodal equity that, itself, is only the product of historical accident.

The proper policy, and the one that the Reagan Administration has wholeheartedly embraced, is to reduce and, as soon and insofar as possible, eliminate all Federal transportation subsidies, and especially those to the freight modes, except where there is some overriding national interest in not doing so. Some of these subsidies, such as those to the inland waterway industry, have been in existence for decades. Others, such as those to Conrail and the Railroad Retirement Fund, date from far more recent times. There probably has never been a time in which the competitive interrelationships among the surface freight modes have not been skewed in one direction or another by Federal subsidy policy (or regulatory or tax policies for that matter). The Administration must reject the implied argument that changes in Federal subsidy policy towards one mode or carrier must wait for simultaneous and comparable changes with respect to all competing modes. Were we to accept this argument, I think you would agree little or no change in Federal subsidy policy would ever take place.

Fortunately, the Administration's program and policy proposals are moving the country in the right direction. We want to move quickly to reduce and, wherever possible, eliminate direct Federal subsidies to the railroads. At our urging, Congress has enacted legislation which should terminate Federal support for Conrail within a couple of years. The President's FY 1983 Budget ends support for the Railroad Retirement Fund and ends the program of credit assistance for railroads established under Title V of Railroad Revitalization and Regulatory Reform Act of 1976. We will be seeking fair contributions in Federal highway user fees from the trucking industry. We are seeking full cost recovery from commercial users of the inland waterways. There will be no better way to deal with this vexing issue of intermodal equity than to adopt these plans as soon as possible.

The Results of the Section 205 Study

The Inland Waterway Revenue Act of 1978 established a fairly modest level of cost recovery, but Congress wanted a better understanding of impacts before considering higher user charges. For that reason, section 205 of that Act instructed the Secretaries of Transportation and Commerce to carry out a study of the impacts of waterway user taxes and charges.

The Congress raised a number of questions in section 205. The core questions are those having to do with the economic and financial impacts of waterway user charges on barge operators, shippers, regions and other economic interests that may be affected. These questions were addressed in a thorough and detailed manner. The other questions raised in section 205 were not subjected to detailed study. This is because of choices the Department had to make when the resources available for the study were sharply curtailed. Section 205 authorized $8 million for this study. The Department requested a supplemental appropriation of $5 million for FY 1979 and Congress appropriated $1 million.

In order to do a responsible job with the funds available, we had to concentrate our resources on the central policy issues of most concern to the Congress. Accordingly, we devoted most of our attention to the actual impacts of user charges on those most affected: shippers, carriers and people in the regions in which waterway carriage is important. No significant resources were devoted to studies of the other questions. The Congress was advised of this decision in letters to the chairmen of the relevant committees on March 15, 1980. No objections were raised.

Some consultants supplied us with brief papers on some of these questions, but no data were gathered and no new analysis was carried out. In addition to impacts on shippers, carriers and regions, the report comments on the following points:

---tax and fee mechanism
---balance of payments
---impact on energy use
---hazardous materials
---waterway requirements through the year 2000
---Federal assistance to the freight modes

The treatment of these issues was largely done with our own staff and that of the Department of Commerce. While the discussions of some of these questions is not as elaborate as it would have been if more money had been spent, it is my opinion that nothing of importance was given up. The report is responsive to the Congressional mandate.

I am well aware that there are critics of the report who have argued that we gave insufficient attention to the question of past, current and future Federal assistance to the freight modes, and, especially, to the railroads. Quite frankly, I think that spending any additional time or effort on this point would be a waste of the taxpayers' money. For one thing, large amounts of data on this question have already been generated and are available to all who are interested. More importantly, I do not believe that questions about the railroad retirement fund or land grants to railroads are germane to the issue of cost recovery on the inland waterways. I have already stated the reasons for this in the discussion of policy earlier in this testimony. Let me turn now to the actual results of our impact study. Overall, perhaps the most striking general point that emerges from the analysis is the very strong future water traffic growth that is forecast, with or without user charges. Under the maximum diversion case, a systemwide fuel tax with no rate response by the railroads, tonnage in the year 2000 is estimated to be 50 percent greater than in 1977, although it is nine percent less than it would be without user charges. An equally plausible scenario with much less diversion is a segment-specific ton-mile charge with a 50 percent rail rate response (i.e., rail rate increases under user charges are 50 percent of barge rate increases). Under this scenario, year 2000 traffic would be 56 percent greater than 1977 traffic. This would be five percent less than the no-user-charge forecast.

This strong underlying growth trend serves to reduce the long-term impact of user charges. The more traffic there is moving on the river, the lower the user charge per ton of traffic and the less the impact of the user charge. Much of the forecast traffic growth is in coal. In tonnage terms, coal is by far the largest single commodity moving on the waterways (although grain is dominant when ton-miles are counted). It accounted for approximately 27 percent of total tons in 1977, and is forecast to be over 40 percent by the year 2000, with or without user charges. There is also very strong growth in corn, soybeans, fertilizer and chemicals.

There are two groups that experience noticeable adverse effects from user charges. These are grain interests and barge operators. At this point, I would like to emphasize, as strongly as I can, that I do not in any way dismiss or underplay these negative impacts. For the individuals who experience earnings losses, the effects are real and unpleasant. This is the inevitable result of shifting the right-of-way costs of a major transportation mode from the general taxpayer to the users. I am convinced, however, that the negative effects, while real, are not nearly great enough to turn us from a policy of full cost recovery. In the long run, the economy will be the better for a more efficient transportation system and for the more careful use of public money.

The barge industry experiences an immediate drop-off in traffic when rates go up to reflect user charges. In four to five years, however, the underlying growth in commodity traffic brings barge traffic back to what it was before user charges were imposed and from that point onward it continues to grow. For particular segments and commodities, the times involved would vary widely. Traffic levels of some commodities, petroleum for example, were already declining and their decline would accelerate. Others, coal and sand and gravel, for example, would decline only slightly and resume upward growth very soon.

The effects on grain interests are likely to be more lasting. Grain shippers in the river's drawing area have enjoyed a definite benefit in lower shipping costs, because subsidy from the general taxpayer has been covering part of those costs for them. Those that have gained the most from this support have the most to lose by its withdrawal. At some distance from the river, the negative effect on grain shippers begins to diminish. There are two reasons for this. One is simply that there is a point at which the sum of the truck rate and the increased barge rate equals the rail rate. Grain shippers beyond this point will switch to rail and avoid the full burden of the user tax. Since they had less gain from the lower cost of the river movement, they have less loss from the withdrawal of the subsidy. Secondly, shippers who are now on the outer edge of the river's drawing area may find their shipping costs reduced as it becomes economically feasible to build unit train loading facilities closer to the river than it used to be.

Which group among the grain interests actually bears the brunt of the user charge cannot be stated with any confidence. One cannot presume that the full incidence of the fee will go back to the farmer. Elevators and terminals are likely to share some of the impact. When export demand for grain is strong, some, or all, of the user charge will be passed on to the foreign buyer.

An important variable in the effects on farmers and barge operators is the extent to which railroads respond to user charge-induced increases in barge rates, either by raising their own rates on water-competitive traffic or by lowering rates to increase their market share. Since railroad response cannot be predicted, user charge impacts were analyzed under various assumptions about railroad behavior. There is no good way of predicting this behavior and, in fact, it is likely to vary over time as conditions change. For example, when railroads have excess supplies of hopper cars, they are likely to bid for increased market share by keeping rates down. Under tighter car supply conditions, they might go for higher rates. Barge operators behave in a similar fashion. Barge rates vary from well below, to as much as 200-300 percent above, the nominal tariff.

Barge operators are helped by railroad rate increases because less traffic then switches from barges to railroads. Negative impacts on grain shippers are eased to the extent that railroads do not raise rates, because this reduces the cost of their alternate means of transportation. Those close to the river would be helped by higher rail rates, since this would keep more traffic on the river, thus reducing user charges per ton-mile.

The manner in which the user charges are implemented can also have a marked impact on the outcome. There are two basic ways to go about levying a user charge. One is to do it on a system-wide basis under which all traffic is charged at the same rate, regardless of the part of the system it is moving on. The alternative is the segment-based fee under which traffic pays at a rate which reflects the government's cost of operating and maintaining the river segment on which that traffic is moving. For purposes of this study, both approaches were analyzed. Under a segment-specific user charge, severe impacts on some rivers with high costs per ton-mile become apparent. In 1977, the average cost per ton-mile for the whole system was 1.1 mills (1979 dollars).

Three very high cost river segments are the Apalachicola/Chattahoochee/Flint (ACF), the Kentucky and the Ouachita/Red. Their costs run from 16 mills per ton-mile on the Ouachita/Red to 45.5 mills on the ACF. The traffic on these segments simply could not sustain these charges, and commercial traffic would not use these stretches with full cost recovery on a segment-specific basis. By comparison, the Mississippi and Ohio Rivers are below one mill per ton-mile.

I want to caution you that our findings about the impact of user charges on high-cost rivers should not be taken as an Administration statement about the economic feasibility of these rivers. The section 205 study was designed expressly for measuring user charge impacts, not for benefit-cost analysis. This is a critical point. No effort was made to assess the total benefits of these projects to users or to others. A reasonable projection of future traffic was made, and then the impact of user charges on that projection was analyzed. The benefits of keeping these stretches open to navigation were not analyzed. As you may know, the Administration does oppose further construction on the Red River, but this is a position reached from specific analysis of that project, not from the section 205 study.

Total levels of diversion are lower with a segment-specific tax than they are with a system-wide fuel tax. This is because a system-wide fuel tax requires the traffic on low-cost stretches to pay some of the cost of the high-cost stretches. Under segment-specific charges, the traffic on the low-cost stretches is relieved of this burden.

Among commodities now on the waterways, those most susceptible to diversion are petroleum products and steel. However, because the amounts of these commodities that move on the river are very small in relation to the overall volumes of these products being produced or moved in the nation, the impacts associated with these diversions are negligible.

The commodities with the least tendency to divert are coal and sand and gravel. Sand and gravel typically move for very short distances. Moreover, in many cases there are no real alternative methods of moving the sand and gravel as it is being dredged from the river.

User charges have only a slight effect on the delivered price of coal. For example, the average increase in the delivered price of a ton of coal on the Ohio River is 20 cents for a segment-specific ton-mile charge and 26 cents for a system-wide fuel tax. This is less than one percent of the total delivered cost of the coal.

As noted at the outset, the two groups that do sustain noticeable negative effects are barge operators and grain interests. These effects are not large enough in total, however, to translate into any extensive effects on regional economies. There are some negative spillover effects, but they are quite small in the context of overall regional economies.

Admittedly, any negative effect is significant to the individual who experiences it. Nonetheless, the effects are truly small when compared to total levels of income, investment or employment. The analysis of regional impacts shows that not more than a fraction of one percent of these totals could be affected.

There are no noticeable negative effects in terms of energy consumption. Neither total traffic shifts off the waterways nor resulting changes in energy efficiency are very great.

Any effect on the balance of payments will be negligible. There may be some shifts in the location of the areas where grain is grown for export. The implementation of user charges may improve the competitive position of Western Iowa or South Dakota growers relative to Eastern Iowa or Illinois River growers with respect to grain exports. This simply means that areas close to the river might send a somewhat lower percentage of their production to world markets while areas farther from the river with good rail access to ports might send a somewhat higher percentage of their production to world markets.

It is important to say a word about the nature of the analysis that was carried out for this study and to place the results in perspective. The basic method of the analysis was to forecast barge traffic growth in the absence of user charges. Then, using estimates of shippers' responses to various rate increases, the traffic flows with user charges were projected.

In other words, a future without user charges was projected, and an analysis then made of what that future would look like if inland waterway user charges were implemented, and nothing else in the economy changed. It is virtually certain that numerous changes, many of which are not now foreseeable, will occur in the next twenty years and that some of these changes are likely to have far greater effects on inland navigation than would user charges. The negative effect of user charges for most grain shippers is estimated at 5-6 cents per bushel, at most. That is an amount that would be swamped by normal swings in the world grain market. Again, I realize that any drop in anyone's income is unpleasant, to say the least, but it is not user charges, but many other variables, that will determine the economic fortunes of inland waterway carriers and shippers over the next two decades.

Let me review some of the criticisms that we have heard about regarding the section 205 report and give our responses.

It has been suggested that DOT used too high an estimate of fuel consumption (too low an estimate of efficiency), thus underestimated the fuel tax, and, therefore, understated the impacts of cost recovery. The first response is that variations in fuel consumption estimates would not affect the traffic diversion estimates of the Section 205 Study. The diversion estimates are based on the change in rates on individual movements. Lower fuel consumption on a particular movement would require a higher tax per gallon, but would not change the actual dollar amount of the user charge for that movement, would not change the estimate of the rate increase, and, hence, would not change the estimate of the impact of the user charge.

In any event, we believe that we have sound figures, although they are somewhat lower than other estimates. The analysis of fuel consumption done by Data Resources, Inc., (DRI) is the most thorough one yet done. DRI did not attempt a direct estimate of overall fuel consumption. Rather, its analysis works from the bottom up. Using Corps of Engineers data on tow configurations, together with information from industry contacts, DRI built up the fuel consumption numbers through detailed estimates by river segment and by commodity. The overall fuel consumption estimate is a result of extensive analysis, using established data wherever possible, together with consultation with carriers. To our knowledge, it is the first analysis to be done that starts with estimates of tow configurations, towboat size and backhaul characteristics by individual movements, that is, by specific trips for each separate commodity. The estimate is built up in this detailed fashion, rather than working off averages that frequently fail to take account of all segments and all commodities.

The DRI analysis implies system average fuel efficiency of 254 ton-miles per gallon in 1977. The truly relevant figures are those for the years in which the major estimates of diversion were made by DRI. These are 286 in 1990 and 297 in 2000. The consumption implied by the fuel taxes being collected by the treasury is around 320 ton-miles per gallon. Allowing for the fact that there must be some under-reporting of fuel consumption in the Treasury figures, these numbers are not that much greater than the DRI numbers. In a recent review of existing analyses, the Congressional Budget Office (CBO) put the overall fuel efficiency number at approximately 350 ton-miles per gallon. They did not have the benefit of the DRI analysis. Given the range of error that must be present in such estimates, this number must be regarded as only slightly higher than DRI's.

In short, we have confidence in the contractor's work and, in any event, variations in the fuel efficiency estimates will not affect the impact analysis.

Some representatives of the waterway industry have asserted that the traffic projections used in the section 205 Report are too high. This is an important point, because high traffic volumes tend to soften the impacts of user charges by reducing the charge per ton-mile of traffic.

In fact, the section 205 Study projections are low when compared to the other major waterway traffic forecasts that have recently been made. The Upper Mississippi River Basin Commission (UMRBC) has projected traffic on the Upper Mississippi and Illinois Rivers for the Section 101 Study. The Corps of Engineers has projected traffic on all waterways for the National Waterways Study (NWS). The 205 study projections are below those for the Upper Mississippi and Illinois Rivers done for the section 101 study. For the year 2000, we have projected 211 million tons on those rivers and the UMRBC estimated 225 million tons. Our projections are consistently close to the low end of the range of the NWS projections. The NWS low projection for the entire system is 748 million tons, while our figure is 751 million tons.

That the Section 205 Study should be on the conservative side in its overall base traffic projections is appropriate and in keeping with the general spirit of the study. On all occasions when a question of judgement arose in the selection of an assumption that would affect the size and extent of user charge impacts, the contractors were instructed always to make their choice in the direction of exaggerating the impacts. Some industry critics have asserted that barge traffic could not grow at all under user charges.

Certainly, the immediate effect of user charges would be a drop in barge traffic. This is inevitable. Further, there is a permanent reduction in the barge share of the commodities now moving on the waterways. This is another inevitable result of the inclusion of right-of-way costs in barge rates. Total commodity traffic, however, should still be growing strongly over time. Because of this growth, total barge traffic will ultimately regain its pre-user charge level and then grow from that point on. Under full cost recovery, it would take total traffic about five years to regain its pre-user charge level according to the 205 analysis.

It has been asserted that DOT underestimated the impacts of full cost recovery user charges by including too small an amount for capital purposes in the cost recovery base. Some have asserted that no capital was included in the cost recovery base.

This criticism is based, in part, on a misunderstanding of what was done. To begin with, all currently funded inland waterway authorized construction projects are included in the cost recovery base, using those portions of their total costs chargeable to navigation under the formula in the Administration's inland cost recovery bill. Following the Administration bill, new projects are not charged for until they are open to traffic. The analytical method would add projects and charge for them if they were found to be required to accommodate the projected traffic. The analysis found that full cost recovery user charges postpone traffic growth to the extent that no new projects are needed for capacity purposes before the year 2000. The analysis is, thus, based on construction costs for projects now under way. The analysis does not exclude the possibility of major rehabilitation projects, but none were included. It is difficult to know what major rehabilitation projects might be undertaken between now and the end of the century. Further, cost recovery, especially on a segment-specific basis, would tend to dampen some of the enthusiasm for these projects that would otherwise exist, and lead to lower-cost ways of dealing with rehabilitation needs.

Recommendations for Cost Recovery Implementation

The Administration is preparing specific recommendations on cost recovery implementation. We have concluded that future construction costs should be recovered on a segment-specific basis and that operating and maintenance costs should be recovered on a system-wide basis. A ton-mile fee should be the mechanism for all cost recovery. Thus, there would be a flat ton-mile fee that traffic on all parts of the system subject to cost recovery would pay. Traffic on segments with new construction would pay an additional ton-mile fee based on the cost of construction for that segment.

The mechanism for tax collection would be based on waybill information. This would simplify the paperwork burden for carriers since all carriers for hire already keep records on movements by distance, by tonnage and by commodity. Further, carriers already report this data to the government for use in the Corps of Engineers Waterborne Commerce Statistics. Some change in procedures would be required to speed the reporting of the data to the government. Some enforcement and auditing procedures would be necessary to minimize underreporting. Mechanisms would also need to be devised for collecting this information from proprietary carriers.

Thus, although a number of procedural changes would be required, we would be building on an established system. The increase in the recordkeeping and reporting burden on carriers would not be great. It should be noted that for this reason a ton-mile fee would represent much less of an administrative burden than a fuel tax.

Our reasons for recovering capital costs on a segment-specific basis and operating and maintenance costs on a system-wide basis are straightforward.

Recovering operating and maintenance costs on a system-wide basis minimizes disruption of existing traffic patterns. It avoids focusing the burden of the already-built system on a particular group. On the other hand, recovering capital on a segment-specific basis means that in the future users will have to pay for improvements on their own stretches of river and will have to weigh their desire for those improvements against the costs which they will have to meet directly.

For cost recovery purposes, future construction costs would be defined as follows: all construction expenditures except for those that were made prior to October 1, 1982. To be specific, the effect of this definition would be that we would recover about 85 percent of the costs on the new dam and the first chamber at Locks and Dam 26, and about 30 percent of the costs of construction on the Tennessee-Tombigbee.

This last provision coupled with the recovery of the operating and maintenance costs on a system-wide basis has important consequences for the so-called "high-cost" rivers. The ACF and the Kentucky will be able to sustain the operating and maintenance charges on a system-wide basis. No capital costs would be recovered on these segments. Relieved of most of the costs of construction, traffic on the Tennessee-Tombigbee would have a good chance of sustaining its fees. The traffic on the Red River would still be burdened with capital charges which it could not be meet. The Administration does not wish to continue the currently authorized construction on the Red River and so there would be no traffic on it in any event.

I would like to make two more observations about the ton-mile fee. It is the best way to collect a segment charge. A fuel tax is useless for segment purposes. The principal alternative to a ton-mile fee for ton-mile segments is a lockage fee. There are two objections to a lockage fee. One is that there may well be future construction projects on stretches where there are no locks. It would be awkward and inconvenient to try to recover lockage fees on such segments. Further, the lockage fee does necessitate a new set of records and a new reporting mechanism.

Another advantage of the ton-mile fee is that it does not distort the relative costs of any of the inputs a barge operator must pay for. Artifically increasing the cost of any one input will cause barge operators to change their pattern of doing things and in effect force them to move away from genuinely efficient modes of operations in order to offset the distorting effect of a fee on a particular input such as fuel or lock usage.

In sum, I believe we have a workable proposal. It combines the best features of system-wide and segment-specific cost recovery. It cushions the shock to the system while requiring direct users to pay for future improvements. It does not represent a significant new administrative burden. It is a sound proposal. We in the Administration look forward to working with you to enact legislation in this session.

Thank you very much. I will be glad to answer any questions.

STATEMENT OF ALICE M. RIVLIN
DIRECTOR, CONGRESSIONAL BUDGET OFFICE

Before the
Subcommittee on Water Resources
of the
Senate Committee on Environment and Public Works

February 10, 1982

Mr. Chairman, I am pleased to appear before your Committee this morning to discuss increasing the fees for using the nation's inland waterways. During fiscal year 1982, the federal government will spend $770 million to build, operate, and maintain the inland waterways. Users, however, will pay back only a small fraction of this amount through fees. Two bills before this Subcommittee--the Administration's proposal (Amendment No. 637) and the Domenici amendment (Amendment No. 32)--would increase waterway user fees.

In the Congressional Budget Office's (CBO) assessment, higher waterway user charges would help promote a more efficient federal investment policy for waterways, as well as more efficient use of the nation's transportation resources. This morning, I would like to comment on five topics associated with increasing waterway user fees:

- The economic rationale;
- The user-fee principle in general, and some examples of its application;
- How present waterway user fees compare with fees on competing modes, and how the two proposals would affect such comparisons;
- How much revenue could result; and
- What impacts increased user fees might have on shippers and waterway operators.

THE ECONOMIC RATIONALE

The federal government finances many investments either because of the substantial national economic benefits that result or because only the federal government can supply the authority and resources needed. When the benefits of such investments are very widespread, having taxpayers in general bear the costs is appropriate. When an investment benefits a relatively small and identifiable group, charging the costs to the specific users may be more appropriate. In other modes of transportation, users carry much of the financing burden; such has not been the case for inland waterways, although it probably could--and should--be.

Waterway user fees have three clear economic advantages. First, if shippers and barge companies know that they will have to repay any expenditures made on their behalf--such as for canals and locks--they will have a greater incentive to work with the government to develop sound waterway investments. Second, to the extent that users of all modes of transportation paid back government expenditures made on their account, shippers would be encouraged to use the most efficient form of transport. In recent decades, the trend has been to reduce federal transportation subsidies; this trend will probably accelerate in future years under growing budgetary pressures. More economical distribution of traffic among the various modes will almost certainly result. Third, waterway user fees could help to reduce the need for new construction by making more efficient use of existing capacity. Rivers and locks would be less congested by traffic that places little value on the services--that is, users unwilling to pay the fees.

THE USER FEE PRINCIPLE--THEORETICAL PROBLEMS AND PRACTICAL EXAMPLES

Developing the most efficient user charges is a difficult task. Many transportation investments are made in part to further such societal goals as regional development or environmental preservation. Thus it is not always clear who the real beneficiaries are or how costs should be allocated. Furthermore, there are choices about the levels at which user fees could be set. They could be set at levels that would partly offset the federal subsidies, or they could go further and, with higher fees, recoup all the federal government's costs. When the service is one for which there is a private market, the government could base charges on the market rate.

Despite these complications, users finance a substantial portion of federal spending on highways and on airport and airway services, for example. User payments have traditionally financed highway spending at both the federal and state levels. Federal excise taxes on vehicles and tires were enacted before 1920, and the gasoline tax started in the early 1930s. The Highway Trust Fund now finances 96 percent of spending by the Federal Highway Administration, while the Airport and Airway Trust Fund pays for federal capital grants and a portion of Federal Aviation Administration operating costs. The Administration has proposed sizable new fees for other transportation users as well, including fees for recreational and commercial vessels, general aviation, and both deep draft and inland navigation.

Altogether, the user fees now in effect yielded nearly $10 billion dollars in 1981, most from fees for highways, airways, and uranium enrichment (see Table 1). Additional annual revenues of $6.7 billion (in 1982 dollars) could be generated by increasing user fees for aviation and by imposing user fees to finance the Strategic Petroleum Reserve, deep-draft navigation, various Coast Guard activities, and inland waterways.

TREATMENT OF INLAND WATERWAYS COMPARED WITH OTHER MODES

Compared with other modes of freight transportation, inland waterways are heavily subsidized and will continue to be so even when the waterway fuel tax rises to 10 cents per gallon in 1986, as required under current law. Both of the proposals before this Subcommittee would reduce the subsidies to inland waterways and make them more comparable to

TABLE 1. SELECTED FEDERAL USER FEE PROGRAMS

Investments Subsidized	Receipts (In billions of dollars)	Services Covered
	Current Fees for 1981 a/	
Highways	6.3	Highway construction and reconstruction from the Highway Trust Fund
Air	1.4	Airport construction grants and portion of Federal Aviation Administration operating costs
Inland Waterway	0.03	Portion of Corps of Engineers operating costs
Irrigation and Power	0.4 b/	Portion of Bureau of Reclamation costs related to irrigation and power generation
Uranium Enrichment	1.1	Uranium processing for sale to domestic and foreign utilities
Bank Services	0.4 c/	Federal Reserve Banks costs including check collection and clearing services, safekeeping of securities, and currency and coin transportation

(Continued)

TABLE 1. CONTINUED

Investments Subsidized	Receipts (In billions of dollars)	Services Covered
	Potential Increases in Fees d/	
Increase Aviation User Fees	0.9	Primarily Federal Aviation Administration operations related to general aviation
Inland Waterway User Charges	0.7	Corps of Engineers operating and capital costs
User Charges for Deep-Draft Navigation Expenses	0.5	Corps of Engineers operating and capital costs
User Charges for Certain Coast Guard Activities	0.7	Coast Guard search and rescue costs, aids to navigation and other programs that aid recreational boating and commercial users
Finance the Strategic Petroleum Reserve with a Petroleum Tax	2.7	Department of Energy costs of purchasing petroleum for storage in the strategic reserve
Postal Service	0.8	Federal subsidies for operations and pensions
Other	0.4	Including uranium enrichment program, nuclear waste research, outdoor recreation, and irrigation cost recovery

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a/ Receipts are shown in current dollars for the year for which they are reported.

b/ 1979.

c/ Estimate for 1982; includes cost savings for programs taken over by private sector.

d/ Based upon Congressional Budget Office, Reducing the Federal Deficit: Strategies and Options (February 1982). (Estimates shown here are for 1983 and have been converted to 1982 dollars.)

existing rail and truck subsidies. Indeed, since these competing modes will themselves probably be less amply subsidized in future years, the two proposals under consideration now are consistent with a broad federal policy of charging the users of transportation services for the costs that the government bears on their behalf. They do not put waterways at a disadvantage relative to other modes: rather, they help correct a present distortion created by waterway subsidies.

Relative to volume of traffic, domestic inland water transportation received the highest subsidy of any freight mode in 1980--3.9 mills per ton-mile, which is substantially above the 2.2 mills per ton-mile received by railroads and the 1.8 mills per ton-mile received by trucks (see Table 2). Pipelines, which carry more ton-miles than either barges or trucks, receive no federal capital or operating subsidies.

Present waterway subsidies are particularly large relative to the total cost of operations. In 1980, federal subsidies covered more than one-fourth of all inland waterway shipping costs. This is more than four times rail subsidies and almost 30 times more than truck subsidies.

Both the Administration bill and the Domenici amendment would sharply reduce waterway subsidies by means of user fees. Under the Administration bill, waterway users would pay fees that would rise to about

TABLE 2. COMPARISON OF FEDERAL SUBSIDIES TO FREIGHT TRANSPORTATION

Mode	Federal Subsidy in Mills per Ton-Mile (In constant 1982 dollars)	Federal Subsidy as a Percent of Total Costs
Truck		
1980 Actual	1.8	1.0
Railroad		
1980 Actual	2.2	6.2
Waterway		
1980 Actual	3.9	29.5
1987 Administration Bill	0.7	7.0
1987 Domenici Amendment	1.1	10.7

2.0 mills per ton-mile in 1987. Waterway users would continue to pay less than the government spends, leaving a subsidy of 0.7 mills per ton-mile. This subsidy is smaller than those now received by railroads and trucks, although subsidies to these modes will also probably decline. In terms of overall financial importance, the Administration proposal would reduce the waterway subsidy to about 7 percent of the total cost of waterway operations--still more than current rail and truck subsidies.

The Domenici amendment, which would impose lower user fees than the Administration bill, would result in subsidies of 1.1 mills per ton-mile, or about 11 percent of total costs, in 1987. Thus, if this plan were enacted, waterways would still have a larger fraction of their costs covered by federal subsidies than would competing modes but would receive smaller subsidies per ton-mile than those now going to trucks and railroads.

Such comparisons are rough generalizations that may not apply to specific regions or companies, since much federal aid is linked to projects in particular locales. In addition, some joint investments benefit several groups at the same time; an example is highway projects, which aid both trucks and cars. Such joint subsidies cannot be precisely allocated to specific user groups. Further, there is no concensus about what is a subsidy and when it should be accounted for. For example, which loans should be counted? (The CBO did include federal purchases of Conrail securities in 1980, and other loans, but did not include loan guarantees.) Should federal support for the Railroad Retirement Fund be counted among subsidies to railroads? (CBO did include it in our calculations.) Which tax expenditures should be included? And finally, the federal subsidy to any mode during a particular year may not closely reflect the historic, long-term investment.

Although such questions of definition make any measure of subsidy a very rough index, even simple, aggregate statistics (outlined in Table 2) can serve as an approximate yardstick for measuring relative federal subsidies to each mode. This measure shows that waterways now receive the largest subsidies of any mode of freight transportation, and that either of the proposals before this Subcommittee would place waterways on a more comparable footing with railroads and trucks.

ESTIMATED REVENUES

Increasing user fees in general is one important strategy for reducing the large federal deficits now projected. Roughly $10 billion per year now comes from user fees. A series of examples of increased or new user fees that could raise another $7 billion per year is presented in the CBO's report, Reducing the Federal Deficit: Strategies and Options, released last week. Higher waterway user fees could generate $1.0 billion to $1.7 billion over the 1983-1987 period. On the basis of the projected schedule for waterway projects currently authorized, the Administration bill would raise about $300 million in 1983 (or about 40 percent of the $770 million projected to be spent on waterway subsidies in 1982), increasing to almost $400 million by 1987 (see Table 3). The Domenici amendment would generate about $76 million in 1983 and more than $300 million in 1987.

The amount of revenues generated under the Administration proposal would depend on when projects were opened to through-traffic. For example, in the CBO calculation, no increased user charges are added for the Tennessee/Tombigbee waterway until 1987, when the waterway is

TABLE 3. PROJECTED REVENUES FROM ALTERNATIVE PROPOSED FEES ON USERS OF INLAND WATERWAYS (In millions of constant 1982 dollars)

	1983	1984	1985	1986	1987	Total 1983-1987
Continuation of Current Policy	40	47	48	55	50	240
Administration Proposal (Amendment 637) a/	309	310	320	327	394	1,660
Domenici Amendment (No. 32) a/	76	151	227	266	307	1,027

a/ This includes revenues generated by user fees contained in current policy and assumes that no waterways will be closed. Under the Administration's proposal, if low-volume waterways closed, revenues could be reduced by $60 million a year, with a corresponding drop in operating expenditures.

scheduled to be open. As a result, the projected revenues jump from $327 million to $394 million between 1986 and 1987. In addition, the Administration bill would recover all of the cost of waterways that are now under construction but not yet open. This has the effect of charging waterway users retroactively for construction investments made prior to 1983. If the Administration proposal were modified to exempt from recovery funds expended before 1983, the revenue generated over the 1983-1987 period would be slightly less--around $1.5 billion, or about $132 million less than under the Administration bill as it is now written.

IMPACTS ON SHIPPERS AND CARRIERS

The Administration bill, which would increase the average waterway operators' total costs by around 16 percent in 1990, could curtail traffic on some rivers. These effects would be greatest if the fees were charged as specific tolls for separate segments. Under such segment tolls, the tolls on certain low-volume segments would have to be very high to offset the costs; the Kentucky, Apalachicola/Flint, and Ouachita/Red Rivers would face the highest segment charges. Navigation on these rivers would therefore probably cease altogether. Similarly, traffic on the Tennessee/Tombigbee route would probably be unable to cover its costs.

Alternatively, user fees could be set at a uniform level across the entire waterway system, using either a fuel tax or a tax of a set amount for each ton-mile hauled anywhere on the system. Under such a system-wide fee arrangement, the regional disparities would be smaller because tolls would be uniform throughout the waterway network. As a result, no segments would face charges high enough to force them to close. This would mean, however, that the federal government would continue to pay the operating and maintenance costs of those segments, and that these added costs would be passed on to users. As a result of these higher charges, the amount of total traffic diverted could be greater.

Shippers of certain commodities would probably bear the greatest impact of increased waterway user fees. Coal, for example, accounts for roughly one-fourth of all tonnage on the nation's inland waterways. Much of this coal moves relatively short distances, however, and is received by utilities or industries that have made substantial investments based on the availability of waterborne coal. As a result, few of these receivers have any reasonable alternative sources of supply. Thus, barge operators could presumably pass along virtually all of the increased user fees to shippers. (Relatively little traffic will be diverted, though.) Since much of the coal goes to utilities, the fees would ultimately get passed along to electricity consumers, particularly since many utilities have automatic surcharges to recover their increased fuel prices. As a result, consumers in affected areas could end up paying about 1 percent more for electricity.

Grains and soybeans account for about 10 percent of all barge tonnage. Since these commodities are light relative to their volume, and since they move quite long distances, these crops account for a larger share of barge revenues. The impact of increased waterway users on farmers would fluctuate, however, because of many factors--including variations in domestic grain production and export demand, and railroads' and truckers' differing responses to increased barge rates. The experience with increased fuel prices during the last several years offers a few insights concerning these reactions. In particular, it suggests that railroads would raise their rates as barge rates went up. But barge operators themselves absorbed much of the short-run impact of higher fuel prices, largely because they had excess capacity and were willing to carry grain as long as the rate kept ahead of the additional operating costs.

The degree to which higher waterway user fees would fall on grain farmers could vary widely. The user fees in the Administration bill would increase the transportation costs for grain by about 6 cents per bushel in 1990. Assuming that half of this is borne by farmers and the other half by owners of grain elevators, consumers, truckers, or waterway operators, then farmers would absorb about 3 cents of the increase. With corn, wheat, and soybeans now selling at $2.40, $3.70, and $6.05 per bushel, respectively, this represents roughly a 1 percent loss in gross income for corn and wheat, and about a one-half-percent loss for soybeans. In other terms, for a representative commercial family farm producing 400 acres of corn and soybeans each year, these user fees would cause a loss of gross annual income of about $900. For smaller family farms that rely heavily on nonfarm incomes, annual gross income from farming would decline by around $150.

When the market for grain exports is slack--as it is now--many water carriers would probably have excess capacity; thus, competitive pressures would probably force them to absorb part of any increases in waterway user fees. Alternatively, when the market for export grain is expanding, as it was in the early 1970s, water carriers would probably be able to pass along any increases in user fees to handlers and shippers. These firms, in turn, would probably be able to pass much of this along to foreign consumers. To whatever extent that this happened, the burden of increased user fees could be substantially transferred to countries that import U. S. grain. Although many factors influence who will bear the burden of higher waterway user fees, grain farmers would hardly have to shoulder the burden alone.

Mr. Chairman, that concludes my prepared remarks. I will be happy to answer any questions.

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Alice M. Rivlin
Director

April 5, 1982

Honorable James Abdnor
Chairman
Subcommittee on Water Resources
Committee on Environment and Public Works
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

I appreciated the opportunity to participate in your hearings on user fees for the nation's inland waterways, held February 10, 1982. In response to your follow-up letter of February 18, I am forwarding the attached answers to your questions.

With best wishes.

Sincerely,

Alice M. Rivlin
Director

Attachments

1. As an economist, can you comment on the approach DOT took in analyzing the impact of user fees? What are its strengths and its weaknesses?

A. In general, the approach taken by DOT appears reasonable and incorporates up-to-date techniques of economic analysis. It offers a reasonably detailed description of the existing inland waterway system, its role in the transportation of commodities domestically and for export, and the effects on the waterways of changes in the production and consumption of these commodities.

The DOT study analyzed the effect of user fees on waterway use under a variety of assumptions as to recovery levels, form of user fee, and responses of competing modes. It provides some understanding of the sensitivity of the waterways to changes in economic conditions and in other factors. The study assumed that shippers would bear the entire burden, but CBO believes this is unlikely. Some of the added costs will probably be absorbed by foreign and domestic consumers, as well as by carriers and other intermediaries.

One strong feature of DOT's approach is the detail of its traffic network model, with 200 segments roughly corresponding to divisions of waterways by locks or by major segments on unlocked rivers. This model allows DOT to translate its assumptions about flows into detailed forecasts of the ton-miles and lockage for each river or segment, revenues from ton-mile segment fees, and fuel consumption by segment.

All forecasting models depend on underlying assumptions about macroeconomic quantities such as GNP, prices and wages, industrial output, and interest rates. While any forecast is inherently uncertain, the economic assumptions used in DOT's analysis appear to be reasonable. In particular, the projected growth in traffic on the inland waterways appears well within historic trends.

Overall, the approach of the Section 205 study appears reasonable and appropriate to the task. While it does not address many of the detailed impacts of user fees that shippers of specific commodities in specific regions are concerned about, it gives a reasonable sense of their aggregate impact. To go further into regional and commodity-specific detail would require a greatly increased analytic effort. Also, more detailed forecasts are apt to be less reliable because of the unique circumstances affecting them.

One of the weaker features of the study is its underlying assumption of no new waterway construction until after the year 2000. Construction expenditures available for recovery include only those for projects currently authorized and/or under construction. Lock capacity constraints could force expansion soon after 2000, at least at Lock and Dam 26, Gallipolis, and Lock and Dam 22 on the Mississippi River, as well as at several locks on the Illinois River. Slight changes in some assumptions about grain exports could accelerate the need for capacity expansion and require new construction by 1990.

2. In your opinion, does this (impact of user fees) issue need further analysis before we address user fee legislation?

A. No. User fee impacts have been adequately studied in our opinion. We believe the phasing in of user fees will allow those affected to adjust to any negative effects. Phasing in will also allow for incremental adjustments in the fees themselves.

There may possibly be undersirable effects in specific regions, particularly if segment-specific fees are imposed. Some recent regional studies have indicated this. But we know pretty well where such impacts would occur, and can build in safeguards in the fee structure to insure equitable treatment of regions.

3. In its study approach, Data Resources Inc. (DRI) used a simulation model to estimate impacts of user fees. Philip Baumel in his analysis used an optimization model. Despite this fact, they come up with very similar results. DOT believes this provides greater validity to the DRI findings. As a research economist, what is your reaction to DOT's position?

A. The results of these two independent analyses correspond rather well in some cases, but they differ in others. Overall diversion of corn traffic in 1990, under a systemwide fuel tax, is remarkably similar in both studies--14 percent in the DRI study and 16 percent in the Baumel study. Under a segment-specific tax with no rail response, diversion of corn traffic is about 15 percent in both studies. However, when railroads respond 100 percent to increased barge rates by increasing their rates, DRI shows no diversion while Baumel shows a small diversion. One reason for the difference is that DRI assumed a uniform rail and truck rate response from all origins to all destinations. In contrast, Baumel assumed rail rate response only to the Gulf, East Coast, and West Coast ports and hold truck rates constant.

The Baumel study considered movements only on the major grain waterways, including the Mississippi, Illinois, Ohio, Missouri, Arkansas, and Columbia-Snake. The DRI analysis considered all navigable rivers. This resulted in different total base-case tons of all grains being transported--70.7 million tons in the DRI analysis and 68.2 million tons in the Baumel study. Considering soybeans alone, the DRI base case assumed about 24 million tons while Baumel assumed only 16 million tons. In all cases, the total tonnages of soybeans diverted under both analyses are about equal. Therefore, the differences in percent diversion from the base-case result from different tonnages in the two base cases.

In short, the two studies imply impacts of similar magnitude. Most of the differences may be attributed to differences in economic assumptions, levels of geographic detail, and base-case traffic levels. In CBO's judgment, DOT is accurate in believing that the Baumel study reinforces DRI's conclusions, although the difference in analytical approaches (simulation versus optimization) does not in itself add strength to the results.

4. Is there any economic reason that we should not recover 100 percent of the navigation-related costs? If we phase in the fees, which group of individuals will benefit the most?

A. From the economic point of view, cost recovery should be 100 percent. However, two other factors merit consideration. First, investment of federal funds in the inland waterway system may be desirable to promote private investment or to aid regional development. Such development considerations could be of primary economic importance in distressed or developing regions. However, many regions served by waterways, such as the lower Mississippi, are well developed and economically sound. In other regions, such as Appalachia, some federal subsidy for the inland waterway system might be argued on the basis of regional development.

Second, any major increase in user fees will cause some economic disruption: some farmers or barge companies may go out of business, unemployment may increase in some localities, and some costs will be incurred by businesses and individuals forced to relocate.

While 100 percent cost recovery would generally improve economic efficiency, the gains should be weighed against these other economic impacts of imposing user fees.

Phasing in the user fees would reduce the initial impact on waterborne carriers and shippers. The impact on specific regions or commodities would be roughly proportional to their waterborne ton-miles, and therefore no group should benefit disproportionately.

5. On page 8 of your testimony, Table 2 contains a comparison of federal subsidies to freight transportation. Could you provide the same analysis for subsidies to the railroads if the Administration's proposed 1983 budget were enacted?

A. The President's budget for 1983 would reduce federal aid to the railroad industry relative to 1980 spending by 42 percent (54 percent in terms of constant dollars). This calculation does not include the major tax benefits received by the railroads under the 1981 Economic Recovery Tax Act. In particular, by shifting from betterment accounting to depreciation accounting as used by all other industries, railroads will be allowed to depreciate over $17 billion in assets (as estimated by the General Accounting Office) over the next five years. As a result, railroads are unlikely to incur any federal income tax liability over the next few years. While temporary in nature, this is a significant new rail subsidy. The major change in federal spending on rail freight regards Conrail. No funds are requested for 1983, although this depends in part on the state of the economy. If the President's user fee proposal is adopted, the federal subsidy to the inland waterway industry for 1983 will drop by 49 percent (60 percent in constant dollars). Taking recent changes into account would yield the estimated subsidies shown below.

RAILROAD SUBSIDIES IN 1982 DOLLARS

	1980 Actual	1983 Budget	1983 Adjusted for Benefits of 1981 Tax Act a/
Mills per Ton-Mile	2.2	1.0	1.8
As a Percent of Total Costs	6.2	3.1	5.3

a/ As a first approximation, railroad benefits were estimated at almost $700 million, the 1980 federal tax liability of Class I railroads.

6. The Administration is also proposing user fees for the Coast Guard and deep-draft navigation expenses. Added to inland waterway fees do they place a severe burden on the waterway industry?

A. User fees for other federal water transportation programs are small relative to the work of the Corps of Engineers on the inland waterway system. Coast Guard spending for the commercial inland water industry adds less than 5 percent to the total federal subsidy, and full imposition of Coast Guard user fees would add about 5-10 percent to the costs imposed by the Administration's inland user fees. The proposed deep-draft user fees are also relatively small, in large part because of the high volume of traffic over which the costs are spread. For example, while CBO estimates that the proposed inland waterway fees could increase grain transportation costs by six cents a bushel, the proposed deep-draft fees are likely to add only about one-half cent a bushel. The deep-draft portion of the Coast Guard fees should have an even smaller impact. As a result, these additional user fees would not place a severe burden on the waterway industry: by far the largest portion of its burden would come by virtue of the inland waterway user charges themselves.

7. Do we need a new study to allocate costs among navigation, flood control, etc. in order to charge users fairly?

A. I do not think such a study is essential. Currently, user charges for the nation's waterways fall far short of full cost recovery, leaving waterways with the largest subsidies of any mode of freight transportation. Moderate shifts in the allocation of costs are unlikely to change this general conclusion. As a result, consideration of the various user-fee proposals now being discussed does not appear to require new study of the allocation of waterway costs.

8. Please provide a general description of the international grain trade, including a discussion of major trading nations' trade patterns and a description of how world grain prices are determined.

A. Only about 20 percent of total world wheat and feed grain production moves in international trade. The United States produces about 25 percent of world grain, but accounts for nearly 60 percent of total world grain exports. Although the United States is the dominant supplier of grains in the international markets, and U. S. prices determine world market prices, it is viewed as a "residual supplier"--that is, competing countries sell their available supplies at prices below U. S. prices and the remaining market demand is filled by the United States, which holds 40 to 50 percent of world grain stocks. The major competing nations are Canada, Australia, South Africa, Thailand, and the European Community (EC). (See Table 1.)

Import demand in grain-deficit nations is determined by population and income growth, and by their grain production. In addition, government policies weigh heavily on import demands insofar as they influence food production and consumption, economic growth, trade, exchange rates, and international relations. Changes in the domestic grain production of food-importing countries, and in their government policies, are the principal sources of volatility in world grain trade.

In the 1970s a near doubling of world grain exports occurred, with the U. S. capturing most of the increase. Growing populations, particularly in developing countries, increased the demand for food grains and caused world wheat exports to increase by nearly 60 percent. At the same time, rising consumer incomes increased the demand for animal protein and consequently expanded the demand for livestock feeds, principally corn and soybeans; world feed grain exports more than doubled. A major share of U. S. corn and soybean exports goes to Europe, the USSR, Japan, and to higher-income, faster-growing developing nations such as the Republic of Korea and Mexico (Table 2). On the other hand, U. S. wheat exports move in greater proportion to the poorer developing nations (including China). About half of U. S. agricultural exports go to developed countries, about a third to developing countries, and nearly 15 percent to the centrally planned economies--the USSR, Eastern Europe, and China.

Agricultural products do not move freely from exporting to importing nations. Trade in these products is characterized by policies designed to protect and insulate domestic producers and consumers from changes in international commodity prices. Some of the worlds' major consumers of grains--the EC, the USSR, Eastern Europe, and China—do not make normal economic adjustments to changes in prices.

TABLE 1. EXPORTS BY MAJOR EXPORTING COUNTRIES, 1980/1981 (In millions of tons)

Country or Region	Exports a/
	Wheat
United States	42
Canada	17
Australia	11
Argentina	4
European Community	14
All Other	6
Total	94
	Feed Grains
United States	72
Argentina	10
Western Europe	7
Canada	5
South Africa	4
Australia	2
Thailand	2
All Other	4
Total	106
	Soybeans
United States	20
Argentina	3
Brazil	2
All Other	b/
Total	25

SOURCE: U. S. Department of Agriculture, Foreign Agricultural Circulars.

a/ Rounded to nearest million.

b/ Less than one million tons.

TABLE 2. IMPORTS OF U. S. CROPS BY MAJOR IMPORTING COUNTRIES, AVERAGE OF 1979/1980 and 1980/1981 (In millions of metric tons)

Country or Region	Wheat	Corn	Soybeans
European Community	2.4	5.2	9.0
Other Western European	1.2	7.1	2.3
Eastern Europe	2.0	4.1	0.7
USSR	3.7	5.9	1.0
China	5.2	0.9	0.5
Japan	3.3	13.3	3.9
Republic of Korea	1.9	2.1	0.5
Mexico	1.1	4.0	0.7
Brazil	2.2	1.0	---
Egypt	1.4	1.0	---
All Others	13.1	16.8	2.7
TOTAL	37.5	61.4	21.3

SOURCE: U. S. Department of Agriculture, Foreign Agriculture Circulars.

Therefore, much of the burden of adjustment is shifted to countries such as the United States that maintain relatively open markets.

International grain trading occurs in an environment where import demand is volatile; where governmental policies impair trade flows and market adjustments; and where government agencies are major traders. The exporting of U. S. grains is a dynamic, complex business conducted under risky and uncertain conditions. Five firms dominate U. S. grain exports, accounting for about 85 percent of the total. In selling grain in the international market, these firms are continuously exposed to price risks; to changes in domestic and ocean freight rates; and to all the logistical and timing problems of getting grain to export position.

International grain prices are strongly influenced by the prices at which U. S. farmers will sell grain, and by the costs of moving grain from U. S. farms to ports. Clearly, U. S. commodity policies have a direct and substantial influence on international commodity prices. Grain and soybean loan rates tend to place a lower limit on the range of international prices, and the upper limit is determined by the release prices for grain in the farmer-owned reserve and by resale prices for government-owned grain.

9. Please provide a general description of the United States grain marketing system, including major production regions, grain transportation modes, and exports from U. S. ports.

A. Wheat, corn, and soybean production is concentrated in the North Central, Great Plains, and Northwest regions. Nearly 60 percent of U. S. wheat is produced in the Great Plains states from Texas to North Dakota (Table 3). Other important regions are the Northwest (Washington, Idaho, and Oregon) and the North Central. In total, 15 states produce about 90 percent of U. S. wheat.

Corn production is concentrated in the North Central states of Iowa and Illinois; those two states produce 40 percent of U. S. corn, and the North Central region produces nearly 70 percent (Table 4). Soybean production is similarly concentrated in the North Central region (Table 5). However, the South, principally Arkansas, Mississippi, and Louisiana, is also an important producing area.

In 1980 the United States produced about 170 million tons of corn, 65 million tons of wheat, and 60 million tons of soybeans (Table 6). About 60 percent of corn production and nearly all wheat and soybean production are sold from farms. Exports take approximately 65, 35, and 40 percent, respectively, of U. S. wheat, corn, and soybean production. Thus, exports accounted for about 120 million tons of the 215 million tons of the 1980 crops of wheat, corn, and soybeans sold by farmers.

The grain marketing system includes country elevators, terminal elevators, port elevators, grain merchandisers, grain exporters, and firms providing transportation services. Grain and soybeans move from farms to domestic uses or foreign buyers by trucks, railroads, barges, and ships.

There are four basic U. S. port ranges through which grain and soybeans are exported--the Lakes (the Great Lakes and St. Lawrence Seaway); the Atlantic; the Gulf; and the Pacific. The Gulf port area is the single most important export point, handling nearly 65 percent of total U. S. wheat, corn, and soybean exports--about 55, 65, and 80 percent, respectively, of wheat, corn, and soybean exports (Table 7). Within the Gulf port range, most of the corn and soybeans and 40 percent of the wheat are shipped from Mississippi River ports. Most of the corn, wheat (mainly soft red winter), and soybeans exported from Mississippi River ports are barged from the North Central region. In contrast, exports from the North Texas Gulf (Houston area) are mostly hard red winter wheat brought by rail from the Great Plains states.

TABLE 3. PRODUCTION OF WHEAT BY MAJOR PRODUCING STATES, AVERAGE OF 1979 AND 1980 (In millions of metric tons)

State	Production
Kansas	11.3
North Dakota	5.9
Oklahoma	5.6
Washington	3.9
Texas	3.7
Montana	3.2
Nebraska	2.7
Minnesota	2.6
Colorado	2.5
Idaho	2.3
Missouri	2.2
California	1.9
Oregon	1.8
Illinois	1.8
South Dakota	1.7
All Others	8.3
TOTAL	61.4

SOURCE: U. S. Department of Agriculture, Crop Production 1981 Annual Summary.

TABLE 4. PRODUCTION OF CORN BY MAJOR PRODUCING STATES, AVERAGE OF 1979 AND 1980 (In millions of metric tons)

State	Production
Iowa	42.6
Illinois	31.5
Nebraska	18.1
Indiana	16.2
Minnesota	15.4
Ohio	10.9
Wisconsin	8.4
Michigan	6.2
Missouri	4.4
South Dakota	4.2
Kansas	3.6
Texas	3.2
Kentucky	3.0
North Carolina	2.9
Pennsylvania	2.8
All Others	11.7
TOTAL	185.1

SOURCE: U. S. Department of Agriculture, Crop Production 1981 Annual Summary.

TABLE 5. PRODUCTION OF SOYBEANS BY MAJOR PRODUCING STATES, AVERAGE OF 1979 AND 1980 (In millions of metric tons)

State	Production
Illinois	9.4
Iowa	8.5
Indiana	4.3
Minnesota	4.3
Missouri	4.3
Ohio	4.8
Arkansas	2.9
Mississippi	2.5
Louisiana	2.2
Tennessee	1.6
Nebraska	1.5
Alabama	1.1
Kentucky	1.2
North Carolina	1.1
Georgia	1.1
All Others	3.4
TOTAL	55.3

SOURCE: U. S. Department of Agriculture, Crop Production 1981 Annual Summary.

TABLE 6. SUPPLY AND ULTILIZATION OF U. S. CROPS, 1980 CROP YEAR (In millions of metric tons)

	Wheat							
	Hard Winter	Hard Spring	Soft Red	White	Durum	Total	Corn	Soybeans
Supply								
Beginning stocks	12.0	7.8	1.1	2.1	1.7	24.5	41.1	9.8
Production	32.3	8.5	11.7	9.2	2.9	64.6	168.7	48.8
Total a/	44.5	16.3	12.8	11.3	4.6	89.1	209.8	58.6
Utilization								
Domestic use	10.6	4.1	3.6	1.5	1.4	21.1	123.8	30.2
Exports	19.0	5.1	8.2	7.3	1.6	41.1	59.8	19.7
Total	29.6	9.2	11.8	8.8	3.0	62.2	133.6	49.9
Ending Stocks	14.7	7.0	1.0	2.5	1.6	26.9	26.2	8.7

SOURCE: U. S. Department of Agriculture, Outlook and Situation Reports.

a/ Total includes imports.

TABLE 7. CROPS INSPECTED FOR EXPORT BY REGION AND PORT AREA, CALENDAR YEAR 1981 (In thousands of metric tons)

Port	Wheat	Corn	Soybeans
Lakes			
Chicago Area	84	1,530	391
Duluth-Superior	2,823	215	27
Toledo Area	458	2,176	1,330
Saginaw Area	126	28	42
Subtotal	3,491 a/	3,949	1,791
Atlantic			
North	413	1,377	435
South	2,338	1,972	1,764
Subtotal	2,750 b/	8,349	2,199
Gulf			
Mississippi River	9,015 b/	30,810	13,606
East Gulf	696	1,030	1,660
North Texas Gulf	13,421 c/	2,690	1,324
South Texas Gulf	348	13	0
Subtotal	23,480	34,624	16,590
Pacific			
Columbia River	11,508	7	38
Puget Sound	295	5,146	114
California	1,883	1,736	146
Subtotal	13,686 d/	6,888	298
Interior	487	973	228
TOTAL	43,894	54,783	21,106

SOURCE: U. S. Department of Agriculture, Federal Grain Inspection Service.

a/ Approximately 60 percent hard red spring; 30 percent durum; and 10 percent soft red winter.

b/ Mostly soft red winter.

c/ Mostly hard red winter.

d/ Approximately 50 percent white; 30 percent hard red winter; 15 percent hard red spring; and 5 percent durum.

The Pacific port range accounts for about 20 percent of U. S. grain and soybean exports. Nearly half of commodity exports in the Pacific port range are from Columbia River ports and are primarily wheat—hard red winter wheat from the Northwest and hard spring wheat from the northern Great Plains states. Grain shipped from the Columbia River ports is transported directly to port by rail or truck or hauled to elevators along the upper Columbia and Snake Rivers and barged to port elevators. The Lakes and Atlantic port ranges each account for about 10 percent of total grain and soybean exports and are served by truck and rail.

In sum, barges transport most of the grain and soybeans shipped from Mississippi River ports—approximately 20, 60, and 75 percent, respectively, of total U. S. wheat, corn, and soybean exports. Additionally, barges haul a significant amount of the wheat exported from Columbia River ports. In total, barges transport 45 to 50 percent of all grain and soybeans exported by the United States.

10. Please provide the Committee with any available data showing, over time, the variability in grain exports, in farm and export grain prices, and in the cost of transportation and other services required to move grain from farms to ports.

A. Farm prices for wheat, corn, and soybeans are highly correlated with their export prices (i.e., prices that foreign buyers must pay for these commodities at U. S. ports). The margin between farm and export prices represents the costs of transportation and other services incurred in transferring commodities from farms to ports. This margin tends to widen with rising exports and to narrow with declining exports. This suggests that firms in the marketing system increase operating revenues as exports expand, and accept lower revenues as exports contract. Alternatively, this implies that these firms have some capacity in the short run to absorb increased operating costs, although ultimately such costs must be offset by increased productivity or passed through to farmers or to foreign buyers.

The relationships among farm prices, export prices, and exports of corn are demonstrated in Figures 1, 2, and 3, based on quarterly data for 1972-1981. The farm price is the U.S. average price received by farmers, and the export price is the average price for number 2 yellow corn, FOB Gulf. Figure 1 shows that the farm price tends to move directly with exports; and Figure 3 demonstrates the direct relationship between farm and export prices. The margin between farm and export prices shown in Figure 3 is compared with exports in Figure 2; it tends to widen with rising exports and to narrow with declining exports. The margin has increased over time, although it contracted substantially in 1981 as the export market slackened. Through 1980, however, after adjusting for inflation,the margin actually declined.

Some tentative inferences may be drawn from this data on corn, which is principally carried by barges from the North Central region to Mississippi River ports for export:

- o Farm prices move directly with export prices;
- o The margin between farm and export prices, in the short run, tends to expand as exports rise and contract as exports fall; and
- o The margin, in the long run, tends to increase--reflecting higher prices for transportation and other marketing services.

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increases in barge costs than would any user charge examined here. A full cost recovery, system-wide fuel tax would amount to 34 cents per gallon in 1980. From January, 1979, to March, 1981, diesel fuel prices went up by approximately 60 cents. Similarly, the maximum negative effect of user charges on the most severely affected grain shipper has been estimated at 5-6 cents per bushel. That is an amount that would be swamped by normal swings in the world grain market. For example, in January, 1980, corn was $1.94 per bushel and went to $3.16 by November of that year. In the same year, soybeans ranged from a low of $5.14 to a high of $8.49.

In sum, the implementation of inland waterway user charges is unlikely to be the dominant, or even a major, influence on the well-being of the groups involved over the next two decades.

FIGURE 1. CORN — U.S. AVERAGE FARM PRICE AND TOTAL EXPORTS
QUARTERLY 1972 - 1981

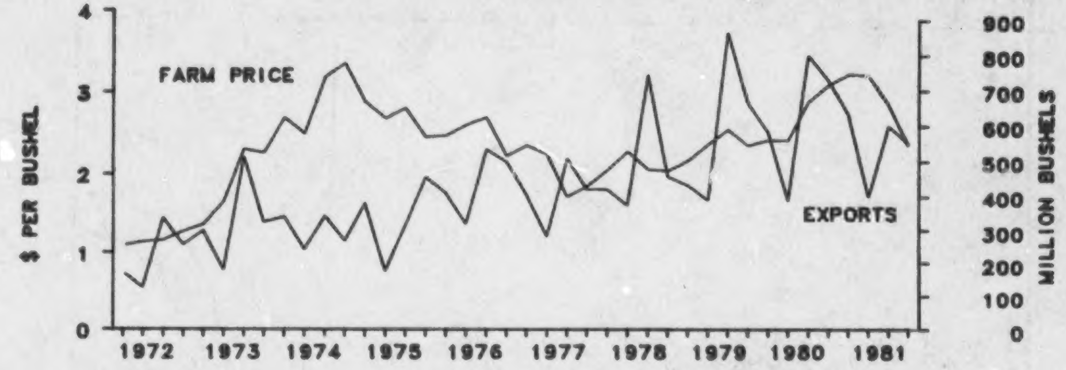


FIGURE II. CORN — MARGIN BETWEEN U.S. AVERAGE FARM AND EXPORT PRICES
AND TOTAL EXPORTS
QUARTERLY 1972 - 1981

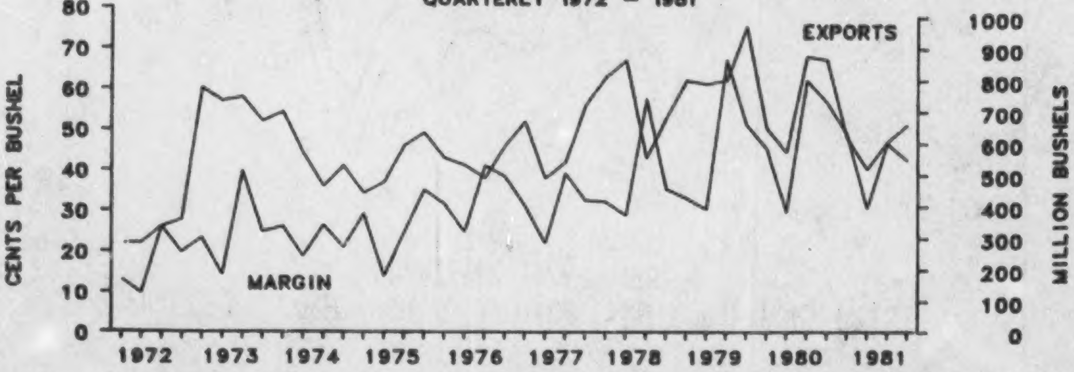
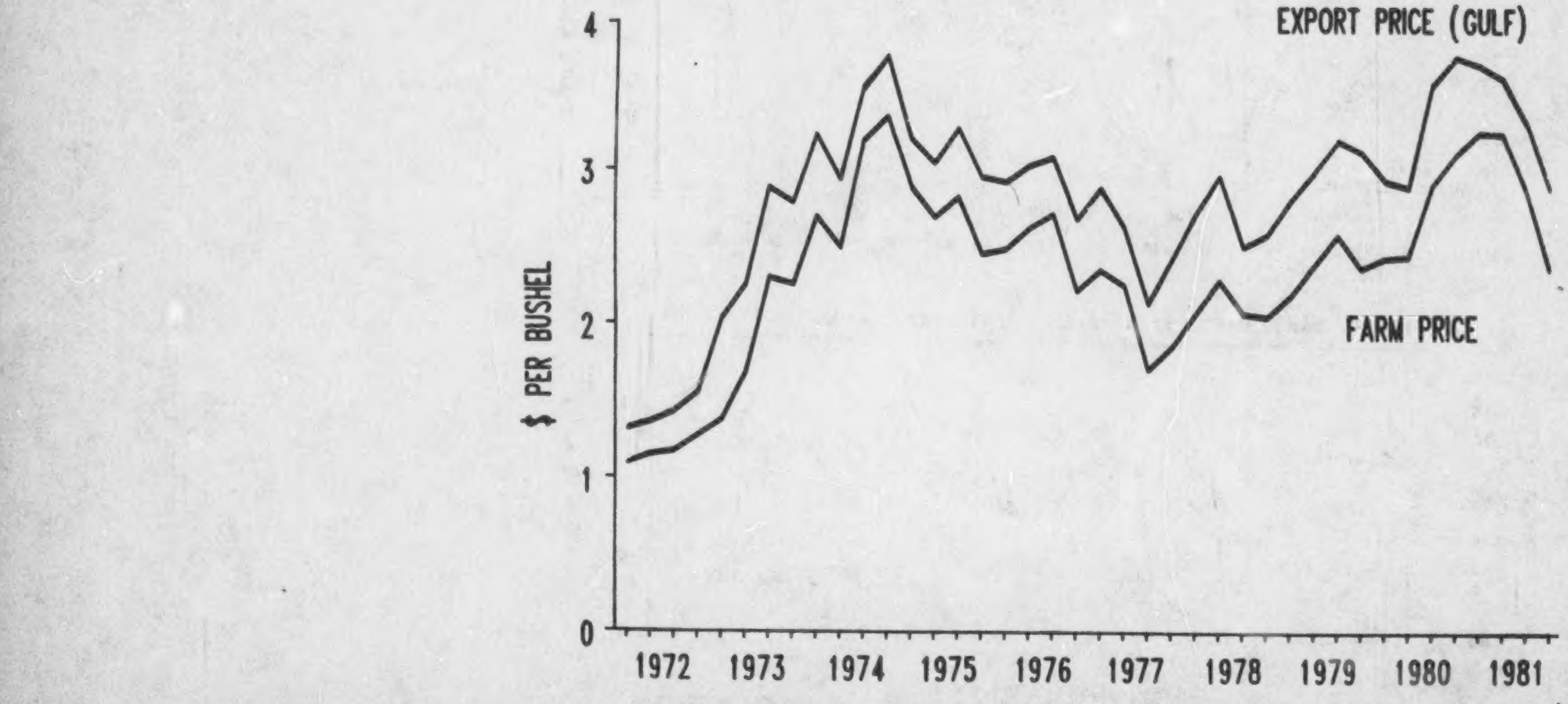


FIGURE 3. CORN — U.S. AVERAGE FARM AND EXPORT PRICES
QUARTERLY 1972 - 1981



In sum, farmers benefit from higher export prices. Firms in the marketing system, including water carriers, have some capacity in the short run to accept lower revenues in response to reduced demand for their services or higher costs; but ultimately, higher costs must be reflected in their prices. Eventually, these higher costs will be reflected both in lower farm prices and higher export prices.

11. In your testimony, you describe the potential income impacts of user fees on two typical farms. Could you please estimate for these two typical farms the impact of a one percent increase in the interest rates?

A. The two typical farms referred to in the testimony (400 acres and 80 acres) have annual cash farm receipts of approximately $100,000 and $20,000, respectively. According to the Department of Agriculture's Agricultural Finance Outlook and Situation (December 1981), an average cash grain farm with cash receipts of $100,000 or more had a debt in 1981 of $565,000, and the average farm with cash receipts of $20,000 to $39,999 had $102,000 of debt. Therefore, an increase of 1 percentage point in the interest rate would add approximately $5,700 to the expenses of the larger farm, and $1,020 to the smaller. Assuming the higher interest rate applied to only short-term non-real estate debt, then the impact per farm would be halved. In either case, the impact of interest rates, which have increased 6 to 8 percentage points since 1979, appears far more severe than would the impact of the projected increases in user fees.

Inland Waterway User Taxes and Charges

Report of the Secretary of
Transportation to the
United States Congress
Pursuant to Section 205,
Public Law 95-502, the
Inland Waterway Revenue
Act of 1978.

February 1982

U.S. Department of Transportation
Office of the Secretary
of Transportation

Washington, D.C. 20590

U.S. Department of Commerce
Office of the Secretary
of Commerce

Washington, D.C. 20230

II. Executive Summary

The Congress raised a number of questions in section 205. The core questions, however, are those having to do with the economic and financial impacts of waterway user charges on barge operators, shippers, regions and other economic interests that may be affected.

Overall, perhaps the most striking general point that emerges from the analysis is the very strong future water traffic growth that is forecast, with or without user charges. Under the maximum diversion case, a system-wide fuel tax with no rate response by the railroads, tonnage in the year 2000 is estimated to be 50 percent greater than in 1977, although it is nine percent less than it would be without user charges. An equally plausible scenario with much less diversion is a segment-specific ton-mile charge with a 50 percent rail rate response (i.e., rail rate increases under user charges are only 50 percent of barge rate increases). Under this scenario, as illustrated in Table II-1, year 2000 traffic would be 56 percent greater than 1977 traffic. This would be only five percent less than the no-user-charge forecast.

This strong underlying growth trend serves to reduce the long-term impact of user charges. The more traffic there is moving on the river, the lower the user charge per ton of traffic and the less the impact of the user charge. Much of the forecast traffic growth is in coal. In tonnage terms, coal is by far the largest single commodity moving on the waterways (although grain is dominant when ton-miles are counted). It accounted for approximately 27 percent of total tons in 1977, and is forecast to be over 40 percent by the year 2000, with or without user charges. There is also very strong growth in corn, soybeans, fertilizer and chemicals. Tables II-2 and II-3 illustrate some of these trends.

There are two groups that experience noticeable adverse effects from user charges. These are grain interests and barge operators. The barge industry experiences an immediate drop-off in traffic when rates go up to reflect user charges. In four to five years, however, the underlying growth in commodity traffic brings barge traffic back to what it was before user charges were imposed and from that point onward it continues to grow. Some small, marginal operators might not survive the transition period.

The analysis that has been conducted almost certainly exaggerates the short-term impact on the barge industry. That is because it has been assumed that barge operators will pass through 100 percent of user charges to shippers. This is a deliberately cautious assumption. It would be very difficult to say what the pricing strategy of barge operators would actually be. Inevitably, there will be many cases in which barge operators in actual practice would absorb some of the charges themselves in the short run in order to hold traffic and keep their barges operating. Thus, the assumption of 100 percent pass-through, while analytically useful, does exaggerate diversion.

The effects on grain interests are likely to be more lasting. Grain shippers in the river's drawing area have enjoyed a definite benefit in lower shipping costs, because the general taxpayer has been covering part of those costs for them. Those that have gained the most from this support have the most to lose by its withdrawal. At some distance from the river, the negative effect on grain shippers begins to diminish. There are two reasons for this. One is simply that there is a point at which the sum of the truck rate and the increased barge rate equals the rail rate. Grain shippers beyond this point will switch to rail and avoid the full burden of the user tax. Since they had less gain from the lower cost of the river movement, they have less loss from the withdrawal of the subsidy. Secondly, shippers who are now on the outer edge of the river's drawing area may find their shipping costs reduced as it becomes economically feasible to build unit train loading facilities closer to the river than it used to be.

Which group among the grain interests actually bears the brunt of the user charge cannot be stated with any confidence. One cannot presume that the full incidence of the tax will go back to the farmer. Elevators and terminals are likely to share some of the impact. When export demand for grain is strong, some, or all, of the user charge will be passed on to the foreign buyer.

An important variable in the effects on farmers and barge operators is the extent to which railroads respond to user charge-induced increases in barge rates, either by raising their own rates on water-competitive traffic or by lowering rates to increase their market share. There is no good way of predicting this behavior and, in fact, it is likely to vary over time as other conditions change. For example, when railroads have excess supplies of hopper cars, they are likely to bid for increased market share by keeping rates down. Under tighter car supply conditions, they might go for higher rates. Barge operators behave in a similar fashion. Barge rates vary from well below, to as much as 200-300 percent above, the nominal tariff.

Since railroad response cannot be predicted, user charge impacts were analyzed under various assumptions about railroad behavior. Barge operators are helped by railroad rate increases because less traffic then switches from barges to railroads. Negative impacts on grain shippers are eased to the extent that railroads do not raise rates, because this reduces the cost of their alternate means of transportation. Those close to the river would be helped by higher rail rates, since this would keep more traffic on the river, thus reducing user charges per ton-mile.

The manner in which the user charges are implemented can also have a marked impact on the outcome. There are two basic ways to go about levying a user charge. One is to do it on a system-wide basis under which all traffic pays tax at the same rate, regardless of the part of the system it is moving on. The alternative is the segment-based tax under which traffic is charged at a rate which reflects the government's cost of operating and maintaining the river segment on which that traffic is moving. Either type of charge can take a number of forms. For the system-wide charge, a uniform ton-mile tax, a fuel tax or a uniform

TABLE II-1

PERCENT CHANGE IN TOTAL TONNAGE IN YEAR 2000 COMPARED TO 1977 BASE UNDER VARIOUS SCENARIOS

SCENARIOS	PERCENT GROWTH
No tax	65.0
System-wide fuel tax 100% recovery 0% rail response	50.4
Segment-specific ton-mile toll 100% recovery 0% rail response	54.5
Segment-specific ton-mile toll 100% recovery 50% rail response	56.3
Segment-specific ton-mile toll 50% recovery 0% rail response	60.8

TABLE II-2

PERCENT CHANGE IN COAL TONNAGE IN YEAR 2000
COMPARED TO 1977 BASE UNDER VARIOUS SCENARIOS

SCENARIOS	PERCENT GROWTH
No tax	157.0
System-wide fuel tax 100% recovery 0% rail response	153.3
Segment-specific ton-mile toll 100% recovery 0% rail response	153.1
Segment-specific ton-mile toll 100% recovery 50% rail response	153.2
Segment-specific ton-mile toll 50% recovery 0% rail response	155.3

TABLE II-3
PERCENT CHANGE IN GRAIN TONNAGE IN YEAR 2000
COMPARED TO 1977 BASE UNDER VARIOUS SCENARIOS

SCENARIOS	CORN PERCENT GROWTH	WHEAT PERCENT GROWTH	SOYBEAN PERCENT GROWTH	TOTAL PERCENT GROWTH
No tax	63.5	55.0	162.7	87.2
System-wide fuel tax 100% recovery 0% rail response	43.1	44.8	138.9	68.3
Segment-specific ton-mile toll 100% recovery 0% rail response	43.2	38.7	134.0	65.7
Segment-specific ton-mile toll 100% recovery 50% rail response	53.7	47.6	145.8	76.1
Segment-specific ton-mile toll 50% recovery 0% rail response	54.3	47.9	146.7	76.7

tow-boat license fee for tow-boats and/or barges are all possible candidates. For a variety of reasons, the fuel tax is the most practical and feasible way of imposing a system-wide charge, and would be the type of charge most likely to be actually employed for this purpose. A segment charge could be imposed through a ton-mile tax, lockage fees, variable license fees and in other ways. For purposes of the study, both ton-mile charges and lockage fees were analyzed. The system-wide fuel tax and the segment-specific ton-mile tax were selected as illustrative of the differing effects of system-wide and segment-specific charges and of combinations of the two.

In comparing these two basic approaches, some striking points emerge. From this analysis, there appear to be four major river segments whose present traffic simply could not pay the full current costs of operating and maintaining these segments together with the cost of the new construction that is currently authorized for these sections. These are the: Apalachicola/Flint, Ouachita/Red, Kentucky and Tennessee/Tombigbee Rivers.

Under full cost recovery on a segment-specific basis, there would not be any traffic on these segments. The underlying reason is that there is considerable variation in the capital and operating costs of various portions of the system as well as wide differences in the traffic volumes across which the waterway's costs can be spread. As a consequence, costs per ton-mile of traffic are far above the average on some segments. For the whole system, the average Federal cost of operating and maintaining the waterways in 1977 was 1.1 mills per ton/mile. The highest and lowest cost segments are:

Estimated Implicit User Charge To
Recover 1977 Federal Operations and Maintenance Costs
(mills per ton-mile)

High Cost/Low Volume		Low Cost/High Volume	
Apalachicola/Flint	45.5 mills	Ohio	.58 mills
Kentucky	23.7 mills	Lower Upp Miss	.67 mills
Ouachita/Red	16.0 mills	Green	.79 mills
Arkansas	9.6 mills	Lower Miss.	.82 mills
Tenn-Tom	(no traffic at present)		

Although the Arkansas is among the high-cost rivers, the analysis indicates that it is able to hold its traffic, and, as its traffic grows over time, ton/mile costs come down. The other high-cost river segments do not have sufficient future traffic growth projected for them to become viable under a cost recovery system based on segment-specific user charges.

It should be clearly understood that the river segments that were chosen for the analysis represent some arbitrary decisions about groups of rivers and stretches. For this reason, some of the segments which the analysis shows cannot hold their traffic contain stretches which might well hold their own. For example, the Tenn-Tom, as defined for this analysis, includes the Warrior River which is definitely able to hold its traffic under segment-specific charges. Another example is the Ouachita River which is included with the Red and would be likely to be self-sustaining under segment-specific charges. Actual implementation of a segment-specific charge would require much finer definition of segments than that used for this study.

Total levels of diversion are lower with a segment-specific tax than they are with a system-wide fuel tax. This is because a system-wide fuel tax requires the traffic on low-cost stretches to carry some of the cost burden of the high-cost stretches. Under segment-specific charges, the traffic on the high-cost stretches has to carry the full costs of those segments. Most (but definitely not all) traffic pays a lower user charge under a segment-specific toll than it does under a system-wide fuel tax. That is because traffic moving on lower-cost rivers does not have to pay the costs of higher-cost rivers. With less diversion, a segment-specific charge reduces the loss of revenue for the barge industry as a whole. It also reduces negative effects on shippers that use the segments that cost less under segment-specific charges than they would under system-wide fuel taxes.

In order to explore further the sensitivity of high cost rivers to segment charges, cases were analyzed in which 50 percent of the costs of these rivers was recovered on a segment basis, with the balance being collected on a system-wide basis. In this case, the traffic on the four river segments mentioned above is still unable to bear the costs allocated to them. This is also true in the case where the 50 percent segment-specific charge is the only tax being collected, and there is no other tax recovery.

Analyses were also performed with overall user charge levels set at less than full cost recovery so that the effect of reducing the charges could be estimated. At lower levels of cost recovery, the impacts would, of course, be reduced. At 50 percent recovery, diversion for most commodities becomes minimal. For example, under 50 percent cost recovery employing segment-specific charges, total traffic is estimated (Table II-1) to be only three percent less than what it would have been without user charges. Under this scenario, there is not any commodity for which the traffic level falls as much as ten percent from the no-user-charge level. In other words, the impact is becoming very difficult to detect.

Among commodities now on the waterways, those most susceptible to diversion are petroleum products and steel. Gasoline and distillates tend to experience diversion rates around four times the average and steel from two to two-and-one-half times the average. However, because the amounts of these commodities that move on the river are very small in relation to the overall volumes being produced or moved, the impacts associated with these large percentage diversions are negligible.

The commodities with the least tendency to divert are coal and sand and gravel. Sand and gravel typically move for very short distances. Moreover, in many cases there are no real alternative methods of moving the sand and gravel as it is being dredged from the river. User charges have only a slight effect on the delivered price of coal.

Many of the utilities that receive coal by water do not have facilities for unloading trains. The incremental amount added to barge rates because of user charges would not be nearly large enough to cause one of these utilities to invest in facilities for unloading trains. For example, the average increase in the delivered price of a ton of coal on the Ohio River is 20 cents for a segment-specific ton-mile charge and 26 cents for a system-wide fuel tax. This is less than one percent of the total delivered cost of the coal.

As noted at the outset, the two groups that do sustain noticeable negative effects are barge operators and grain interests. These effects are not large enough in total, however, to translate into any extensive effects on regional economies. There are some negative spillover effects, but they are quite small in the context of overall regional economies. Admittedly, any negative effect is significant to the individual who experiences it. Nonetheless, the effects are truly small when compared to total levels of income, investment or employment. The analysis of regional impacts shows that not more than a fraction of one percent of these totals could be affected.

There are no noticeable negative effects in terms of energy consumption. Neither total traffic shifts off the waterways nor resulting changes in energy efficiency are very great.

Any effect on the balance of payments will be negligible. There may be some shifts in the location of the areas where grain is grown for export. The implementation of user charges may improve the competitive position of Western Iowa or South Dakota growers relative to Eastern Iowa or Illinois River growers with respect to grain exports. This simply means that areas close to the river might send a somewhat lower percentage of their production to world markets while areas farther from the river with good rail access to ports might send a somewhat higher percentage of their production to world markets.

An issue frequently raised in the context of waterway user charges is that of Federal subsidy to other modes. Review of this history reveals that, at one time or another, each of the modes has been subsidized and promoted as a means of achieving some national goal. Currently, it is the goal of the Executive Branch to eliminate all Federal subsidy to freight movement. The Administration is asking Congress to enact bills which would accomplish this goal.

Before closing this executive summary, it is important to say a word about the nature of the analysis that was carried out for this study and to place the results in perspective. The basic method of the analysis was to forecast barge traffic growth in the absence of user charges. Then, using estimates of shippers' responses to various rate increases, the traffic flows with user charges were projected. User charges were estimated using Department of Army information on the allocation of costs to navigation.

In other words, a future without user charges was projected, and an analysis then made of what that future would look like if inland waterway user charges were implemented, and nothing else in the economy changed. The underscoring is used, because it is virtually certain that numerous changes, many of which are not now foreseeable, will occur in the next twenty years and that some of these changes are likely to have far greater effects on inland navigation than would user charges. For example, fuel price increases of recent years have caused far greater

WATERWAY USER FEES

FRIDAY, MARCH 5, 1982

U.S. SENATE,
SUBCOMMITTEE ON WATER RESOURCES,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Mobile, Ala.

The subcommittee met at 9:50 a.m., in the conference room, 31st floor, First National Bank Building, 31 North Royal Street, Mobile, Ala., Hon. James Abdnor presiding.

Present: Senators Abdnor and Denton.

OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator **ABDNOR**. The Subcommittee on Water Resources of the Committee on Environment and Public Works will come to order.

We are here in Alabama to hear testimony on the possible impacts of recovering Federal expenditures related to the inland waterway system. You can see that I am accompanied by your good Senator Jeremiah Denton of Alabama. We are holding these hearings in Mobile at the request of Senator Denton because of his strong concern of the effects which user fees would have on the users of the State of Alabama and the surrounding area.

I just want to say that we arrived last night, and I truly know what southern hospitality is now. Your good Senator made sure everything was in order. We had a wonderful evening. I am saying that even in the fog, this is a wonderful place to be.

Senator **DENTON**. The Sun just came out.

Senator **ABDNOR**. I can assure you that you have got a Senator that everybody up in Washington greatly respects, and the prestige he has obtained in the short time he has been there is remarkable.

I know you are as proud of knowing him as I am and of being part of the Senate.

We want to welcome all the persons who have come to testify at today's hearings on a matter that may be of utmost importance to the future development and health of our inland waterway system. We have for consideration before the committee the administration's proposed inland waterway user charge legislation called S. 810 and as further refined by amendment No. 637. Also before us is Senator Domenici's alternative amendment No. 32.

Currently, there is a tax on fuel used for commercial shallow draft transportation. The bills before our consideration propose to recover the Federal expenditures on the inland waterway system through mechanisms to be developed by an agency of the executive branch considering various possible mechanisms such as an increased fuel tax; system wide ton-mile charge; segment specific ton-mile charge; a lockage fee or combinations of the group. Whichever mechanism may be adopted, it will inevitably result in passing these charges to the farmers, shippers, and finally to the consumers.

Being a farmer myself, I have always had great concern about this, because I still wonder how we are going to pass our farm costs down anyway. They always seem to end up in the hands of the farmers.

As I have repeatedly expressed in the past, we are all concerned over the impact which the user fees will have on our economy; the farmers'; the barge industry and our Nation's consumers. The study directed by the Inland Waterways Revenue Act of 1978 was recently submitted to Congress by the Department of Transportation.

We are currently analyzing the findings of the study. The findings show that, under the current inland waterway system expenditures of $330 million, a systemwide fuel tax in 1990 would be about 38 cents per gallon versus 6 cents per gallon currently collected.

If, in turn, we look into a systemwide charge, an average of 1.1 mills per ton-mile with ranges between 45.5 and 0.58 mills per ton-mile.

The administration has taken a strong position in getting user fees instituted. Before taking action on the pending legislation, we will insure that the impacts are minimized and that, if needed, provide for a gradual implementation of the recovery.

We hope that the testimony to be obtained here today will help the committee to analyze the impact of these fees. I am going to call now for some comments from Senator Denton who I know has very strong feelings on this. We have expressed great concern over the effects of the full recovery of Federal expenditures for commercial shallow-draft navigation.

Senator Denton?

OPENING STATEMENT OF HON. JEREMIAH DENTON, U.S. SENATOR FROM THE STATE OF ALABAMA

Senator **Denton**. Thank you very much, Senator Abdnor. Your remarks were generous, and we are very fortunate to have a man with Senator Abdnor's experience with farming and with Government. He was over in the House for a number of years representing South Dakota with great distinction and in the Senate, has established himself as a man of great integrity and a hard worker. He is not going to do anything sudden. He is not going to make any decisions that are not based on adequate study and information.

In that light, I know I speak on behalf of all of us in welcoming him and thanking him for coming to our beautiful state and enjoying our hospitality. He had a dozen oysters last night and a whole bunch of coconut shrimp and fortunately they were very, very good.

This is my hometown, Jim, and the harbor of my family and friends. I do believe that the Tennessee-Tombigbee is something that has such great potential that it deserves your careful attention, and we are just awfully glad that you came on down here where the terminus will be. I acknowledge that Senator Abdnor has the expertise; his staff, both his senatorial staff and subcommittee staff, have far more knowledge on this subject than I. I have great interest in it, but we all welcome them here to examine the administration's proposed inland waterway user fee legislation, Senate bill 810, as well as Senator Domenici's alternative approach amendment.

I am sure that testimony will cast some light on the way we approach those. Alabama has 5 percent of the Nation's waterways, and Senator, you know that we can boast of the Tennessee-Tombigbee; the Alabama-Coosa; the Warrior-Tombigbee, the Black-Warrior-Tombigbee; the Appalachicola-Flint and Mobile Harbor which, if the Sun comes out a little better, you can see from the top of this building very well. We are proud of our waterways. We here are very proud of Mobile Bay.

Senator Abdnor will hear firsthand what effects user fees will have on businessmen and the economy of Alabama, a number of them being represented here today. These hearings are even more important in light of President Reagan's budget proposals for 1983. Those proposals, as you know, include provisions to recover part of the cost of operating and maintaining waterways through charging fees to commercial users of those waterways.

User fees may be justified in some instances, but their amounts, in my opinion, cannot be set so high as to injure those who must use the waterway. Frankly, I am concerned that user fees can hurt the farmer, and Senator Abdnor shares this in a very personal sense. Having been a farmer, he really knows how an unreasonable burden could be added to their already indecent expenses, their growing costs.

I am also concerned that user fees set at an initial unjustifiably high level could place a premature lid on the commercial traffic on our waterways, preventing the higher traffic rates which would otherwise occur; but permitting the full cost recovery with lower user fees if they are set more realistically at the beginning. This is especially the case with the Tenn-Tom, where the actual benefits to the waterway are not yet fully recognized and cannot be until construction has been completed.

User fees are an essential component to the President's economic program, yet I know President Reagan does not want to impair economic recovery by placing an artificial burden on the businessmen and farmers. I have been assured personally that that is not his intent.

I look forward to hearing the testimony of the witnesses today and especially in working with Senator Abdnor and under him with my other colleagues in the Senate to address these issues.

Thank you very much, Senator Abdnor, for permitting me an opening statement.

Senator ABDNOR. Thank you, Senator Denton.

I think in starting off our witness list, it might be well if we called upon Larry Green who is with the District Corps of Engineers here in Mobile and have him give us an overall view of the water channels here and the water uses. Will you do that, Larry?

STATEMENT OF LAWRENCE GREEN, CHIEF OF PLANNING, MOBILE DISTRICT, CORPS OF ENGINEERS

Mr. **Green**. Yes, sir, I will be happy to. My name is Larry Green. I am Chief of the Planning Division of the Mobile District of the Corps of Engineers. We appreciate the opportunity to brief you and bring you up to date on the extent of the waterways in Alabama and within the Mobile District system of waterways.

We have an abundant number of waterways in our transportation network here in Alabama and our adjoining States of Mississippi and Florida.

I see, Senator, that you have the brochure in front of you, so I will be referring to the waterways.

Senator **Abdnor**. A lot of other people want to see what you are referring to.

Mr. **Green**. At hand is the special Port of Mobile. There is a map in there that shows the total national system and particularly focuses on the waterways in Alabama and Mississippi.

We have, in the total network in the Mobile District, about 2,000 miles of inland waterways. We have also another large waterway in Alabama which is not in our district, the Tennessee River that runs across the northern part of the State.

To just briefly highlight the system, we have the Black-Warrior Tombigbee that runs from the Port of Birmingham in the center of the State down to the Port of Mobile, and we have the Alabama River Waterway which runs from Montgomery to the Port of Mobile.

We have the Tennessee-Tombigbee waterway, which is under construction and will eventually connect to Black-Warrior at Demopolis to Pickwick on the Tennessee River running up the western side of Alabama and through the eastern corner of Mississippi.

We also have the Appalachicola-Chattahoochee Flint waterway which is on the eastern border of Alabama between Alabama and Georgia, short of running down through Florida. All of those waterways are connected by the intercoastal waterway which runs east and west through our district and goes on into Florida and over west through Louisiana into Texas. Our waterway system in Alabama handles somewhere between 50 and 60 million tons of commerce a year. It is a very diverse type of commerce composed of ores, coal, agricultural commodities and others; paper products and other products related to the timber industry.

Also I want to point out the importance of the deep draft harbors which are the receiving port for many of these commodities as well as the importing ports for large amounts of the commodities that move inland. Those ports are, of course, in Mobile; Pascagoula, Miss.; Gulfport, Miss.; Pensacola, Fla. and Panama City, Fla.

I think that gives you a brief overview, sir, of our network here in Alabama.

Senator **Abdnor**. These are all deepwater ports?

Mr. **Green**. The five ports I mentioned are deepwater ports. The minimum depth at any of them is 30 feet, and Mobile Harbor is 40 feet.

Senator ABDNOR. 50 to 60 million tons a year going up and down the waterways; what is the greatest commodity? Is any one greater than the other?

Mr. GREEN. I think probably the coal movements are the greatest right now.

Senator DENTON. I was interested in that question. If you could break those in tonnage right now, do you think coal is higher?

Mr. GREEN. Yes, sir. I believe it is.

Senator DENTON. After this witness I would ask you, Senator Abdnor, to recognize in the course of your hearing that there are three other gentlemen who have asked to be heard today.

Senator ABDNOR. Thank you, Mr. Green.

Mr. GREEN. Yes, sir.

Senator ABDNOR. Let me say this, Senator: We have an official list of witnesses here. We will certainly work in as many as we can with the limited time that we have.

We would like to give everyone an opportunity, and we certainly will if we can.

The Governor, I know, would like to have been here today. He does have his representative here, Walter Stevenson. We are anxious to hear from Mr. Stevenson.

STATEMENT OF WALTER B. STEVENSON, JR., OFFICE OF STATE PLANNING AND FEDERAL PROGRAMS, STATE OF ALABAMA

Senator ABDNOR. You are with the office of State planning and Federal programs from the State of Alabama; is that correct?

Mr. STEVENSON. Yes. I am Walter Stevenson of the Governor's office of State planning and Federal programs. On behalf of Governor James, I would like to extend to you a warm welcome and also thank you for holding this hearing in Mobile today. Your interest in this vital subject is again demonstrated through this hearing, and you are to be commended for your keen insight into the issues facing us today.

We would also like to thank Senator Denton and his staff for their assistance in providing this forum today, which is an excellent example of bringing government to the people.

Gov. Fob James has asked me to represent him today and speak on his behalf concerning any changes to the method of funding the construction, operation and maintenance of our inland waterway system.

We are not opposed to change, per se, as evidenced by the strong stand of Governor James in regard to a shifting of many of the responsibilities from the Federal Government to the State and local governments.

Senator ABDNOR. Excuse me. I am going to interrupt you for 1 second. I should have said that your entire statement will be included in the record. You can proceed after that in any way you care to. If you want to make a summary, you certainly do not have to read it in its entirety. It will be placed in the record.

Mr. STEVENSON. Thank you.

We are not opposed to change, per se, as evidenced by the strong stand of Governor James in regard to a shifting of many of the responsibilities from the Federal Government to the States and local government. The Governor welcomes this shift of Federal policies and programs. Many of these programs can and should be at levels of government where the overall objective of the program can best be met.

The same thought process carries through to business, industry and in the agricultural area. There are, however, many programs which should be the principal responsibility of the Federal Government such as defense of the Nation, insuring interstate commerce can move unimpaired and maintaining the best posture possible to improve our import and export capabilities.

Maintaining a viable National Inland Waterway System, we believe, is clearly a Federal responsibility. The provision of adequate funding to construct, operate, and maintain the National Inland Waterway System is of vital importance to the citizens of Alabama and the Nation.

Most of the proposals and ideas being voiced recently to modify the methods to fund the Nation's inland waterway system seem to be based on the idea that only the shippers, the towing industry or the State in which the inland waterway is located receives the benefits of waterway transportation. We believe this to be totally incorrect. We believe the principal beneficiary is, in fact, the citizens of the United States. They benefit through the reduced cost of the food we eat and the finished products we all use. They benefit in the utilization of the most energy efficient method of transporting many of the raw materials used to supply the industrial base of the Nation.

The citizens benefit in utilizing the streams, a renewable resource, without adversely affecting the environmental balance. We all benefit in utilizing our inland waterway system as a major feeder of products and materials to our deepwater ports for both exports and imports.

We feel any significant change in the method of funding the inland waterway system, especially those currently being discussed, are shortsighted and counterproductive to national objectives. We further feel several of the proposals would have the effect of closing down some existing systems and placing extreme hardship on others, especially the newer waterways and those which have increased construction, operation, and maintenance costs which can be attributed to actions of others where clearly their objectives are, in fact, to hamper the inland waterway system.

The proposed changes would have a compounding adverse effect on foreign trade. They would increase the cost of products and materials delivered to foreign markets and, in many cases, drive our products beyond the point of being competitive or would result in forcing the farmer and others who are already operating at little or no profit further into economic despair.

We would be in a posture of, in fact, moving to remove foreign trade barriers and at the same time creating internal barriers and added costs to our citizens, farmers, and businesses further weakening the economic fabric of the Nation.

For many years our inland waterway system has developed and operated under the guidance of Congress in a partnership with the Federal Government, State and local governments and private enterprise. It is true the bulk of funding of the inland waterway system has been through the Federal Government. However, large investments have been made by States and local governments by providing for their share of both the first cost of construction and for the operation and maintenance of the inland waterway system.

Alabama, for example, has, over the years, invested large sums based on this partnership. In addition to the obligation under this partnership, the State of Alabama has invested hundreds of millions of dollars in shipping facilities.

The citizens of the State, on numerous occasions, approved through the ballot process the funding necessary to have and maintain a viable inland waterway system and associated facilities.

Private enterprise, including the farmers, the businessperson and the industrialist, have all made, over the years, significant investments to utilize a national treasure, our inland waterway system. Unfortunately, some would like to have us believe only the Federal Government is investing in the inland waterway system. However, this is not the case.

Congress, in passing the Inland Waterway Revenue Act of 1978, departed from a tradition of more than 100 years by imposing a fuel tax on commercial navigation on inland waterways which is to be fully implemented by 1985. This in itself was a major shift in national policy.

In section 205 of the act, Congress further instructed the Department of Commerce and the Department of Transportation to undertake a study on the impacts of even higher taxes. This was a reasonable request.

At this time, however, we are, to put it mildly, less than enthusiastic with the methodology, the opportunity to provide information and make input and lastly, the results of the recently released summary of the 205 study.

However, we will continue to examine this study, as will others.

In Alabama, we are very concerned about the impact of major changes in the method of insuring the inland waterway system in the State of Alabama and in other States in the Nation. We have undertaken an evaluation of the impact of such a major change on the people of Alabama and the economy of the State. The initial phase of this evaluation should be completed in the near future. With its completion and the completion of other similar efforts, we are confident we will all begin to see and understand the effects of modification of the mechanism for funding the inland waterway system.

However, at this time I do not believe the effects have been determined and I have serious concerns about adverse effects to Alabama and the Nation if Congress acts hastily in making any major changes.

In closing, I just have one additional comment: I would like to urge you and others in the Congress to give this subject a full and complete airing prior to making any changes in the National Inland Waterway System and ask your support and influence to insure our waterways are operated and maintained on a full-time basis in the immediate future.

Thank you, Senator.

Senator Abdnor. Thank you, Mr. Stevenson. It is interesting that you want to make your own study?

Mr. **Stevenson**. That is correct.

Senator **Abdnor**. We would welcome any input you can give us, particularly if you have some good, hard facts and figures behind it.

Also, I would like your comments with regard to the section 205 study. That is quite a document. We have waited for a long, long time to receive it, long past the original due date.

This is the time when we should be getting some input from people back home, and if you find parts of it that you want to comment on, we would like to hear it.

There is one thing I know: We all hate to see user fees commence. Incidentally, this is Hal Brayman, a member of my staff. I don't want to put the blame on him, but do you think you are pretty well known here, Hal?

Mr. **Brayman**. I expect there are a few people here that know me.

Senator **Abdnor**. Hal prepared the water resources section of the Environment and Public Works Committee's report to the Budget Committee.

I am afraid that the bottom line of that report was rather high. I am sure the Budget Committee is going to look at it and frown on it. The water resources budget we looked at was as presented to us by the administration. If you looked at the overall figure, it does not look bad. You think, "Well, at least we can keep up with what we had been doing."

Then as you go into it you find there is $519 million of that expenditure that was going to come from user fees. Some of that would come from the bill we had, S. 1692, the deepwater seaport bill.

We did not go along with this decision. We sold them on a more gradual, lesser fee, but the point I wanted to make is that even though we do not like it, I think that we are seeing a whole new concept in water projects that might be forthcoming around the Nation. We need all the input we can get because we do not want to rush into anything.

Money obviously is tight. We are not going to see it coming back like we used to. There is going to be a lot of competition for it.

We appreciate the work your office is doing. I know I would welcome any additional facts you want to send us.

Senator Denton?

Mr. **Stevenson**. Senator, one thing I would like to comment on is that we will be providing comments to you and your committee on the 205 study.

However, we are waiting on some of the documents that I think have methodologies before making comments. They should be forthcoming shortly. Also, our internal study in the State should be completed, hopefully, in late April. We will be forwarding copies of that to the committee.

Senator **Abdnor**. Very, very good. Thank you.

Senator **Denton**. I was interested in your comment, Mr. Stevenson, about the adverse effects on foreign trade which some of the most oppressive user fees plans would impose. I have read about the Governor's trips to Germany and so forth over the past few years.

I know that the State, the Governor's office, is seeking new foreign trade markets. Can you tell the group here today what countries you have already worked with in developing trade markets for Alabama and some idea of what potential we might lose were we to price this waterway out of practicality?

Mr. **Stevenson**. Senator, two of our principal commodities, I think, that we have that interest the foreign governments more so than others are the grains, particularly the soybeans; and the steam coal that we have. We see that the greatest increase in export from Alabama are possibly in these two areas. These two commodities are generally in demand throughout the world. We have made extensive contacts in Japan, Korea, Taiwan, many of the Caribbean nations, Jamaica, El Salvador, Guatemala, and Brazil. We currently have a group that is in Egypt and in Spain. We are pursuing this quite actively. We see our job as making others aware of the products that we do have in the State and the way that we can get them FOB to their docks at the lowest possible cost.

Any additional fees that we, in fact, put on the inland waterway transportation would further increase the price that we have to charge for those products if thee is any room for increased prices.

With some, however, there is no room so we would, in fact, not be in a position of competition with other nations.

Senator **Denton**. Thank you, Mr. Stevenson.

Senator **Abdnor**. Thank you.

Our next group of witnesses is a panel of shippers: Mr. Bob Hope, Mr. Tim Parker, Mr. Glover Wilkins, and Mr. Offa Nichols. If you gentlemen would please come forward, I guess you wouldn't mind coming together here. You are all here on the same subject.

STATEMENTS OF BOB HOPE, DIRECTOR, ALABAMA STATE DOCKS DEPARTMENT; TIM PARKER, VICE PRESIDENT, PARKER TOWING CO.; GLOVER WILKINS, ADMINISTRATOR, TENNESSEE-TOMBIGBEE WATERWAY DEVELOPMENT AUTHORITY; OFFA S. NICHOLS, JR., PRESIDENT, WARRIOR-TOMBIGBEE DEVELOPMENT ASSOCIATION; AND C. R. CARLSON, CHAIRMAN, ALABAMA COUNCIL OF WATERWAY ASSOCIATIONS

Mr. **Carlson**. Ray Carlson, for the record.

Senator **Abdnor**. Mr. Carlson, you represent who?

Mr. **Carlson**. I am the chairman of the Alabama Council on Waterway Associations. We have a statement submitted.

Senator **Abdnor**. Very fine. I just wanted to make sure the record reflected that.

Gentlemen, as I said to Mr. Stevenson, your written statements will all be placed in the record in its entirety. If you care to summarize your testimony any way you care, we are not trying to shortchange you at all. I can make Mr. Hope the spokesman for the group.

Mr. **Hope**. On behalf of the Alabama State Docks and the Port of Mobile, I would certainly like to welcome you, Senator Abdnor, and your staff to Mobile. Senator, I had the opportunity to offer testimony last June before your Water Resources Subcommittee in Washington, D.C., in regard to deep draft dredging and cost recovery methodology relative to user charges at our Nation's ports. We greatly appreciate your decision to hold a public hearing in Mobile in regard to the development of user charges for our Nation's inland waterway system.

Senator Denton, it is always a pleasure to have you back home. We appreciate you arranging these hearings at the Port of Mobile.

I think it might be worthwhile, Senator, to briefly give you a description of the port's facilities, our present expansion programs and plans for the future in that a direct correlation may be reflected with regard to the subject of this hearing: increased user charges On our Nation's waterways.

The Alabama State Docks, the terminal facilities operator of the Port of Mobile, has been in existence since 1928. The operating plant as it exists today includes a bulk material handling plant located on the northern extremity of the primary properties at the confluence of the Mobile River and Three Mile Creek. This facility is primarily responsible for handling imported ores such as bauxite, which is consumed locally by the operations of the Aluminum Co., of America; iron ore, which is destined for the steel manufacturing industry in Birmingham and Gadsden, Ala.; steam coal for power generation use in Alabama and Florida; ilmenite, manganese, magnesite ores as well as many others which enter the port by deep draft vessels for subsequent movement to final destinations within the State of Alabama and, of course, also to Mid-America via inland transportation modes of rail and barge. This plant is responsible for the handling of 6 million tons annually.

A renovation program has just been completed at this facility updating all the handling equipment and constituting a capital investment of approximately $26 million. A further expansion program is underway to provide the facility with export capabilities as well as the inherent import usages. By the fourth quarter of this year the plant will be in a position to handle increased amounts of export coal, coke and other tonnages.

Last year this operation was responsible for working 21,255 railcars and 536 barges.

The Alabama State Docks grain elevator facilities are public facilities used by many companies for the handling of export grain including wheat, corn, soybeans, oats, pellets, and others produced in Alabama, Mississippi, Georgia, Tennessee, Illinois, Indiana, and, as a matter of fact, throughout the Midwest. The existing facilities have handled in excess of 80 million bushels on an annual basis. This facility worked 534 barges and in excess of 11,000 railcars last year.

The State docks grain elevator operation has been involved in an expansion program which included construction of new silos, new headhouse and headhouse equipment totaling some $30 million and is presently undergoing an expansion which includes an enclosed conveyor system from the new headhouse to a new wharf which will be equipped with two high-speed shiploaders capable of delivering grain to a vessel at 80,000 bushels per hour. These improvements will constitute an additional $15 million expenditure at the grain elevator facility and will give the Alabama State Docks the capability of loading and turning bulk carriers as fast as any port in the gulf.

The Alabama State Docks operates a system of 14 inland river ports. Seven of these facilities have grain elevators and are located at Demopolis and Tuscaloosa on the Warrior-Tombigbee system; Claiborne, Selma and Montgomery on the Alabama River; Phenix City and Columbia on the Chattahoochee. These seven elevators have a combined storage capacity of 3.2 million bushels and represent an investment of $16.3 million. These inland elevators serve an in-house marketing exercise in fitting the needs of state agricultural producers into the Alabama State Docks' ability to provide an export function through the terminal elevator at Mobile.

The grain elevators are strategically located throughout the State and provide the agricultural community of the State a means of selling grain for export locally. The farmer brings his grain into the elevator in his area and receives the Chicago Board price that day minus a minimum transportation charge. At this point he has relieved himself of the obligations of marketing his products; acquiring the inland transportation required to position his production for export; contracting for freight forwarders, international bankers, stevedores and ship chartering and can convert his time and savings into his next producing crop.

In some instances, this particular scenario can be the difference between a marginal or deficit operation and a profitable crop for our State's farmers.

The Alabama State Docks, in responding to the requirements of State coal producers in 1975, initiated operations of the McDuffie Export Coal Terminals. This facility has just completed its second expansion and is involved in a phase 3 expansion program which is scheduled for completion in the first quarter of 1983.

Last year, some 5.4 million tons of export coal was handled through the McDuffie Terminals and projections are that this year with the second phase expansion in place, some 9.5 to 10 million tons will move through this facility. The present expansion will give the terminals export capabilities of around 23 to 24 million tons annually and will provide the States of Virginia, Kentucky, Tennessee as well as Alabama a low-cost export terminal to enhance the marketing capabilities of coal production within those States.

During 1981, the McDuffie Terminals worked in excess of 23,000 railcars and over 3,000 barges and represents a capital expenditure for the Alabama State Docks in excess of $90 million.

The State docks' general cargo handling facilities entail 27 berths, cranes, and handling equipment totaling millions of dollars. Various projects have been recently completed to give the general cargo handling increased diversity including a new RO/RO ramp for the expedient handling of vessels of this type technology, container cranes, covered warehouses, and the incorporation of a new fendering system designed especially for the handling of barges. Some 768 river barges worked at the general cargo piers of the Alabama State Docks last year.

Gentlemen, as you can see, we have at this port a very good modal mix of rail, water, and highway transportation. Each mode is an integral part of the services we offer to the customers that utilize the Port of Mobile, and our obligation is to provide efficient facilities which will enhance marketing prospects of industries not only in the State of Alabama but throughout the Mid-America area from which cargo moving through the Port of Mobile originates and terminates.

Our concern lies not in the assessment of user charges on the Nation's waterways, because a level of fuel charges are now in place and are recognized as an economic factor to be dealt with when shipping via barge.

Our concern, however, is with the random user charges that may be established at levels which will preclude movement by the historical economical water mode and ultimately deter or abort the marketing of a specific production due to the fact that the transportation factor has become the negative ingredient in the marketing formula. The proposed legislation constitutes a drastic change in national policy.

We suggest prior to the formulation of any change in Federal funding resulting in an increased level of charges, sufficient time and energy be expended to research the ultimate impact of that level on all large bulk carriage markets.

A determination should be made as to how the proposed level of user charges would impact on the national economy, the producing segments of industry or agriculture, the labor force involved in those segments and the overall effect on international trade with specific regard to balance of payments.

Coal has become a major commodity in international trade and at this particular time probably represents the best opportunity that this country has had in its recent history to obtain a favorable trade balance as well as realize a positive payment structure with regard to international exchange.

Approximately 80 percent of all coal moving into the McDuffie Coal Export Terminal moved via barge in 1981. The economies of transportation associated with barge carriage tend to posture Alabama coal producers at a favorable level with producers in the eastern area of the United States when marketing production to Europe as well as the Far East.

Grain production within the State of Alabama reached an all-time high last year with soybeans constituting the major revenue crop.

State soybean production in 1981 totaled 47,150,000 bushels. Corn production in the States totaled something over 34,100,000 bushels, and wheat production was almost 25 million bushels last year. The major producing areas of these large agricultural crops are in a position to take advantage of the marketing concept of Alabama State Docks inland elevators and to avail themselves of the economical water transportation to the terminal elevator at the Port of Mobile.

In the last few years, significant technologies have been developed within the agri-industry which have led to increasing yields per acre, especially in regard to soybean production. Through these new technologies and the ability of the United States to market grain production on an international basis, the trading of U.S.-produced grain has also played a major role in helping to turn the tide in this country's negative balance of trade and payment deficits.

It is entirely feasible that randomly applied waterway user charges could increase the rates for barge carriage to a level where it would not be feasible for agricultural shipments to take advantage of this historical economical water transportation.

At this point, and we feel contrary to the presumptions made in the report of the Secretary of Transportation to the U.S. Congress pursuant to section 205 relative inland waterway user taxes and charges, the railroads would exercise their prerogatives under the new found freedom of the Staggers Act and subsequently increase their prices for transportation within the same parameters which had become the competitive level due to increased assessment of waterway user charges.

This whole scenario then leads to the agricultural producers accepting the burden for increased transportation charges via both modes due to application of the inland waterway user charges and subsequently decreases or nullifies altogether the producers' margin of profit.

I have been discussing our concern for our farmers and agricultural production, but at the same time, we are just as concerned with the mining and manufacturing areas. As I said earlier, coal moving southbound to the Port of Mobile and iron ore imported into Mobile moving northbound to the steel manufacturing areas of Alabama make up a tremendous volume of inland waterway transportation on the river segments within the State of Alabama.

In addition to an increase in user charges, the potential impact of cuts in Federal spending on the inland waterway system could be devastating to the Port of Mobile especially in regard to the Warrior-Tombigbee segment which constitutes a vital transportation corridor between the port and the northern industrialized section of the State of Alabama.

Limited hours of operation for this waterway could result in a catastrophic backlog of barges handling coal, iron ore, grain, and other commodities and would ultimately result in tremendous costs to shippers utilizing this system as well as to the Alabama State Docks 'operating plants.

It is our opinion that the report of the Secretary of Transportation to the U.S. Congress pursuant to section 205 on inland waterway user taxes and charges is inconclusive in many aspects and sufficient data was not developed to insure that the long-range effect of increased user charges coupled with a proposed port user charge application to recover Federal investments in operating and maintenance at our Nation's ports would not curtail or entirely stymie production in those areas which are historically dependent on bulk carriage.

The Alabama State Docks is very concerned about the change in historical national policy and the subsequent level of increase of user charges; the application of the charges; and as I mentioned earlier, long-range effect on the producing segment of industry or agriculture; the labor forces involved in those segments; the mode of carriage and the over-all effect on international trade.

Gentlemen, I thank you for allowing us to present our views today. We would request that these comments be made a part of the permanent hearing record.

Senator ABDNOR. Thank you, Mr. Hope. I will say to the rest of the witnesses that your complete statements will go into the record and you can summarize if you wish. You gentlemen may use your own judgment. You can be assured that even though you don't say it, it will be in the record.

Mr. Parker, I call on you.

STATEMENT OF TIM PARKER, JR.

Mr. **Parker**. Thank you, Senator. My name is Tim Parker, Jr. I am vice president of Parker Towing Co., in Tuscaloosa, Ala. I appreciate the opportunity to testify at this hearing today regarding the impact of increased user fees on the barge and towing industry.

We are a family-owned and operated barge line. As a matter of background, our company was started over 40 years ago by my father who was working his way up through the ranks on paddle wheel steamboats. I state that background because I think it is somewhat indicative of our industry. We are a free-market entry industry, so to speak. Anyone who has the capital to enter our business can; it happens every day.

There are over 1,800 companies involved in our industry. The majority of them are privately owned and privately operated. I think that the system of free market entry gives us a very healthy system of checks and balances; it keeps us competitive. It gives the shipper a wide range of options to choose from among carriers. I think I am reasonably safe in saying today that our industry is totally opposed to any increases in further waterway charges until such time as the Federal Government establishes the principle that all modes of transportation benefitting from any form of Federal assistance shall be subject to appropriate cost recovery and implements such a program in an equitable manner; and performs a proper cost allocation which rationally assigns Federal costs among the many beneficiaries of Federal public works program.

In the water mode, for example, there are many waterways where, in addition to navigation, you have flood control; hydroelectric generation; recreation/municipal water supply, et cetera. We feel that the Federal Government must be evenhanded in its treatment of competing modes of transportation, and to do otherwise would bring an unfair and unearned windfall benefit to one mode at the expense of the other.

Senator, you referred earlier to the 205 study. I am sure it comes as no surprise to you that our industry generally takes great exception to the 205 study. Just to cite a couple of quick examples, we feel that the fuel efficiency factors used in that study are inadequate. They do not properly reflect the fuel benefits of our mode. And where they refer to a possible tax of 38 cents a gallon or more, we feel it would be substantially higher than that, perhaps in the 60 cent range. I assure you, it would be catastrophic to our industry.

The 205 study also does not contemplate any new construction projects before the year 2000. Right here in the State of Alabama we have a crying need for a new lock on the Warrior River system which is currently being studied by the Corps of Engineers right now. That is just two examples of that.

In fact, a Congressman recently stated on the floor of the House that the 205 study, and I quote, "is incomplete, inadequate and inexcusable."

I think it is vitally important that we make reference to the various railroad subsidies involved because when you take the position that we are that we will pay our fair share, just let the other people pay, the railroad retirement system, as an example, has received over $7 billion over the last 20 years, and the current budget proposed by the administration adds an estimated $350 million in it to subsidize the railroad retirement system.

Conrail has received billions of dollars since 1976. Although the stock line is, that is just an eastern railroad benefitting eastern shippers, the facts are that 70 percent of the traffic moved on Conrail originates or terminates outside of Conrail's service area. Thus, it benefits nearly all of the freight-carrying railroads in the country.

In fact, it is simply their own switching arm. The 4R Act and other acts give the railroad substantial cash benefits, federally subsidized loans and other programs.

The land grants; millions of dollars that flow daily into the railroad as a result of natural resources on lands given to the railroads by the Federal and State Government over a century ago, and it is kind of interesting to note that a good bit of that mineral income comes from sections of land adjacent to the tracks that have recently been abandoned by railroads. Yet those grants were originally made because of an implicit promise for perpetual rail service.

The Federal Railway Administration annually provides no-cost inspection service and other free benefits in research and development to improve railroad efficiency and ease of operation.

The railroads picked up a windfall tax and tax benefits of over $16 billion in accelerated tax depreciation right-of-way writeoffs.

I think, in summary, our position is that all Government assistance, in whatever form, constitutes a subsidy and must be figured into any equitable solution to the cost recovery controversy. Equity does not appear to be the thrust behind the administration's current drive to impose several forms of user taxes on the water transport mode.

We are willing to pay our fair share for those services, but we refuse to accept an arbitrary assignment of Federal overhead to the water transport mode. We would urge that you carefully evaluate the impact on that before prematurely moving ahead with some of the proposals that are before you.

I would mention also—and I know you have a supplemental list you are trying to add, but there are a couple of other spokesmen; Dick Barchie and Les Sutton are here. I hope you give them a chance. If you have any questions, I would be glad to try to respond.

[The statement follows:]

Senator ABDNOR. Thank you. We will go ahead and take the rest of the panel, if we can. We have five; I don't think we can add many more.

Mr. Wilkins?

STATEMENT OF GLOVER WILKINS

Mr. WILKINS. Thank you, Mr. Chairman. I am Glover Wilkins, administrator of the Tennessee-Tombigbee Waterway Development

Authority. The authority is a five-State organization, established in 1958 to promote the development of the Tennessee-Tombigbee Waterway and its economic and trade potential.

We do appreciate the opportunity to participate in these hearings today. The authority commends you, Mr. Chairman, and Senator Denton for holding these hearings in Mobile. I would like to also say that we are delighted you brought with you Mr. Hal Brayman. Even though Hal and I don't agree eye to eye all the time on all the things we discuss, I will say that there is nobody in this industry that doesn't hold him in the highest regard and feel that he is a very effective and efficient staff person in Washington.

Mr. Chairman, I will not read my statement, but I would like for it to be incorporated in the record.

Senator **Abdnor**. It certainly will be, I assure you.

Mr. **Wilkins**. I have also attached two studies as an appendix to my statement that were prepared by the Ohio Valley Improvements Association which I think shows the inadequacy of the 205 study.

Senator **Abdnor**. We will include those, too. [See pp. 181, 186.]

Mr. **Wilkins**. Thank you, sir. As you know, we were without water user/waterway charges for almost 200 years. We do have a system of law that places the tax of 4 cents a gallon which goes to 10 cents a gallon on our waterways. I think that it should be given time to determine whether or not this tax will serve the purposes which we are looking for.

I think that Mr. Parker has very clearly stated the equity principles that this tax would—that the 205 study would address. I would like to say that we consider one of the greatest deficiencies of the 205 study is that the executive branch continues to fail to provide the Congress with a comprehensive analysis of the various forms of financial assistance provided to these two modes by the Federal Government.

We are suggesting that the 205 study look more into all the grants from the Government for this. We think very possibly the competitive edge could be to rail if these charges were instituted.

We would also like to point out the devastating effect on the private sector. The larger, so-called Fortune 500 type of industries, through their diverse business activities, may now be able to survive such a rapid departure from current policies.

However, individual farmers and small businessmen will not. As you stated earlier, Mr. Chairman, the farmer is the one who will pay for this in the end. I don't think that he can be cut much more in his profits. I think in this area, we either are farmers or we have been farmers.

I think a good example of what I am talking about is the fact that on the Tennessee-Tombigbee Waterway, which is open for traffic up to Columbus, Miss., about 110 miles up from Demopolis, a small company invested $1½ million in some grain, to grain tenders on Tenn-Tom. Last year, this company shipped about 5 million tons of soybeans and wheat at a savings to the farmers of 15 cents a bushel.

I know that you know that this could be the profit. This waterway is already bringing benefits to the farmers.

Mr. Chairman, we are concerned about the segmented toll. We feel that a uniform tax would be much better than a segmented tax. With relation to the 205 study, we would take particular exception to the fact that Tenn-Tom and possibly the other waterways included in with, say, other waterways, we think that each waterway should stand on their own, like Tenn-Tom, to make a determination of what the impact would be.

The other thing is that making Tenn-Tom pay before the port is not completed, even though at the end of this fiscal year it will be about 80 percent complete, we don't feel it is fair for us to have to pay for the recovery of construction at this time because the other waterways that were authorized at about the same time have already been built.

It is not proper for us to have to pay.

Mr. Chairman, I would like to point out the fact that of the $800 billion Federal budget in 1983, that only $155 billion of that is for capital investments that will yield a return. The rest of it is a 1-year deal; when it is spent, it is all over with.

We think that this is too much out of proportion. This is $155 billion of $800 billion; that is a mighty low figure to put in the future of America. The productivity will certainly be decreased as a national output if the waterway tolls as advocated are put into effect.

Mr. Chairman, speaking for the members of my authority, Governor Brown of Kentucky is the chairman of it, we are asking that you consider all the implications of the proposed major changes in the long-established Federal policies affecting waterways.

Thank you.

Senator **Abdnor**. Thank you. We will continue with Mr. Nichols.

STATEMENT OF OFFA S. NICHOLS, JR.

Mr. **Nichols**. I am Offa Nichols, President of the Warrior-Tombigbee Development Association. I appreciate the opportunity to appear here today.

The Warrior-Tombigbee Waterway is now carrying twice the traffic forecasted during the authorizing studies. It is expected to increase by another 50 percent over the next few years.

Senator, I will be highlighting from that rather extensive statement that you have before you there.

Senator **Abdnor**. Good.

Mr. **Nichols**. There is no way I can testify without repeating some of the material that has already been said. However, I will try to do it in the context of things which are very current that have happened since some of the other statements were made.

On the Warrior-Tombigbee, we have encountered a new set of circumstances stemming from the worldwide energy and food picture. Some estimates indicate that 10 percent of our Nation's coal reserves are located in the Warrior basin. Farmers from 21 Alabama and Mississippi counties ship their grain to Mobile for export via the waterway. The development of these coal reserves and a growing world market have created new demands. Several thousand farmers are dependent on the waterway for efficient transportation of their products. Even today, without user charges, foreign markets are backing off from our farm products because of costs.

There are many other important commodities moving on the Warrior-Tombigbee Waterway such as ores, crude and fuel oils, steel products, chemicals, aggregates, and wood products.

These increasing demands require that the Warrior-Tombigbee operate at peak efficiency on a full-time basis. Our operational efficiency is today further hampered by a serious bottleneck caused by the one remaining substandard lock, William Bacon Oliver on the Warrior River. This pre-World War II lock is smaller than the other five, all of which are the new modern standard size. This necessitates the tows being broken apart and using double lockages to get through.

It would seem to be truly pennywise and pound-foolish to perpetuate this inefficiency. The current operations and maintenance budget and the various user charge proposals will do exactly that, lower the efficiency.

From our own observations and discussions with those who use the Warrior-Tombigbee, I do not believe that the basic industries involved will be able to absorb the added. This means that these costs will have to be passed on or the service terminated or perhaps displaced to higher cost alternate means of transportation.

The following are predictable results of this eventuality: One, the cost of electric power will go up for both the home and the business. Some 80 percent of the electric power in Alabama, the Southern Electric System area and this whole area is generated from coal, much of which moves by the waterway, for the record, from utilities and from the Alabama Electric Cooperative to support this.

I hope there will be time to allow the Alabama Electric Cooperative to tell you very briefly later about the new plants they have located.

Senator **Abdnor**. Is that one of the two you are talking about?

Mr. **Nichols**. Yes.

Senator **Abdnor**. We have to move along here.

Mr. **Nichols**. Specifically because of the inefficiencies.

Senator **Abdnor**. We would like to have them.

Mr. **Nichols**. Food prices will increase because the farmers' costs will increase or else he will become less efficient; petroleum costs will go up; construction costs will go up; our competitive position in the world markets will be degraded at a time when we need help, not headwinds; and certainly more unemployment will result.

It appears to me that most of us, if not all of us, are the true beneficiaries of the waterway system. We still have the same basic concerns and fears: Nobody knows yet what these impacts will be. We are having trouble with all these bills you mentioned, Senator, the proposals for implementation to make changes.

The 205 study appears to be seriously inadequate. It appears to me that the main difference in our position today versus a year ago is that now we have new and greater pressures for user charges, but no better answers to the questions that were raised a year ago.

The first question: What are the impacts? The 205 study is addressing this as are the many local studies. The 205 study as presently presented to Congress does not provide an adequate basis for evaluation and certainly not for decisions.

The study has not received very high marks for objectivity, for logic or for credibility. It has been admitted that the study received low priority for both attention and funding until too late to permit the thoroughness that Congress must demand.

For example, I have heard Mr. Gianelli say that as much as $20 billion needs to be invested in the coming decade for water projects in response to problems that have already been identified. Yet I have read in the 205 study that no amounts need to be recovered for new construction because no additional capability is required before 2000 beyond that construction now authorized.

I have trouble with that. In addition to the 205 study, there are 14 area of State studies being made, including the one already identified in Alabama. Many are not complete, including the one in Alabama. These studies are the grassroots, down to the working level studies which will reflect how it will impact today, not how 10 or 20 years from now we might all be able to look back and say, "It wasn't so bad."

The next question: What are the costs of the navigation system? For over 150 years, nobody has had to keep records upon which to address this question. From the 205 testimony so far, it seems that non-navigation benefits have been charged to commercial navigation.

Secretary Lewis suggested in his testimony that the study was unable to do a responsible job in other than the central policy issues. It appears that the issues of proper cost allocation was not studied and the study managers adopted an arbitrary cost allocation formula. Thus one of the key ingredients was not addressed. Apparently, we not only don't know how much should be allocated to navigation; we have yet to decide how to find out.

How can competitive equity among the transportation modes be achieved? While the exact amount of governmental financing of commercial waterway transportation is unknown, it is overshadowed by the large-scale Federal assistance to both railroads and highways.

Examples have already been entered into the record. My comments are not meant as an attack on the railroads or highways. We need all of them to restore this Nation's economy and defense, but equity demands that Federal modal assistance programs be even-handed.

Senator Abdnor, you have already heard Secretary Lewis' easy dismissal, in fact, almost off-hand dismissal of the critics of the 205 report who said it gave insufficient attention to the question of Federal assistance to the other freight modes, especially to the railroads.

He said that in his view, spending more time on it would have been a waste of the taxpayers' money. That view does not change the fact that such a study was recognized as essential to responsible judgment on the part of the Congress and was called for by the Congress.

I, for one, hope that Senator Baucus of Montana and others will follow up with additional legislation to see that Congress gets such a study if additional legislation is, in fact, required.

It is unfortunate that Congress is again being asked to make further judgments as to forms and levels of waterway user charges still before it has adequate information on the impacts, on costs and on equity considerations. We urge the Congress to continue action without delay to obtain such information and to pay close attention to what it reveals.

Then and only then can a realistic Federal policy be developed.

In closing, sir, it would be unfortunate if you don't find time for Mr. Nick Barchie, whose name was inadvertently left off the list since his carriage represents the largest one.

Senator **ABDNOR**. We have him on a supplemental list. I don't want to push people, but we are going to have to shorten the statements. There are those that want to be heard.

If we let one or two groups take all the time; we won't have time for the others.

Mr. Carlson, will you wind up this group?

STATEMENT OF C. R. CARLSON

Mr. **CARLSON**. Thank you, sir. I am Ray Carlson, the chairman of our Alabama Council of Waterway Associations, and also executive vice president of the Coosa-Alabama River Improvement Association. There are six members, and they are listed on my statement. I will not read them.

You have heard from two: Tenn-Tom Authority and the Warrior-Tombigbee Association. I carry here a statement from the Tri-Rivers Waterway Development Association which I would like to have entered into the record.

Senator **ABDNOR**. It certainly will be. [See p. 260.]

Mr. **CARLSON**. As our council met to prepare for these hearings, two things became very clear: One that we were of one accord. I will not go through the issues and the conclusions there, but I am sure you can anticipate what they are from previous testimony.

Second, it was very clear that our citizens that we represent see user charges which are aimed exclusively at navigation as a serious economic threat. You have a panel before you today of a number of people who use the waterways specifically everyday. But you also have behind them the citizens like the five States that are the Glover Wilkins Authority, and in my association we have 18 counties and 21 municipalities that are members of the association. These people work together because they know what waterways can do for them. They have also encouraged industry to come and locate on their waterways.

They are concerned, now, that a lot of good work that has been done by their industrial development activities might be undone. I want to stress that we do represent the citizens and not just the industries of the waterway users, people who benefit from this secondarily.

I do want to interject, sir, in a moment to tell the chairman that one of his subcommittee members shook the bushes in these parts with his comments about sand and gravel recently, sand and gravel moving on our waterways. We would welcome the opportunity to brief the distinguished Senator from New Mexico on the value and demand of aggregate materials which meet modern design criteria.

I am going to close this with just a little anecdote which I think is important, sir. It is on the last page of our statement. It tells about how farmers in Alabama make use of our waterways. Mississippi Chemical, a farmer-owned corporation, barges fertilizer up the Alabama River to Montgomery at a freight savings of $5.63 a ton. This same company barges fertilizer from Pascagoula, Miss., if you have that map, to the Alabama Farmers Cooperative in Decatur, Ala.

Decatur is located on the Tennessee River. This barge delivery takes 23 days, proceeding west on the Intercoastal Waterway, north on the Mississippi, east on the Ohio River and south on the Tennessee. Even going upstream on three of our largest rivers, this is the most economical means.

When Glover Wilkins' Tennessee-Tombigbee is completed, the trip from Pascagoula to Decatur will be reduced from 23 to 9 days. You can be certain that our farmers can use this significant reduction in their cost of doing business.

We strongly recommend, as has been said before, that you be cautious about any user charges until the impact is fully understood. We are confident that Congress will not be coerced into producing unwise user charge legislation just because $150 million in O. & M. funds were held hostage in the 1983 budget.

Thank you very much for your courtesy.

Senator ABDNOR. Thank you, Mr. Carlson. I guess we better not take too much time with questions, but let me give you the picture from where I think I can say Senator Denton and I sit: We strongly endorse the President's program to rejuvenate the economy and bring business back. That includes a number of attached programs and some cutbacks in spending.

We also have an increasingly growing budget. We were all shocked when even the President suggested we could have up to a $19 billion deficit and the Congressional Budget Office Director, Dr. Alice Rivlin, said it could conceivably go up to $135 billion. That is still, while it represents a growing and large budget over the previous years, it reduced the growth considerably.

I couldn't agree with you more, Mr. Wilkins, when you pointed out the $155 billion we are putting in investments. That is where our dilemma is. We have a program that takes up 48 percent of the budget. It is tied to these entitlements. We hope that maybe some of us in Congress have got the nerve to be doing something about them.

They are pretty sensitive. They are pretty touchy. You start talking about social security; you start talking about your retirements; you start talking about a number of things. That is where we are at, and then are set in by law. Nothing is going to change that.

With that staring us in the face, we have got to quit kidding ourselves now, at least with this budget. We have got to be realists about this. We had a budget hearing other day. I don't think for 5 seconds it is going to get passed. I mean, we just assumed the President is wrong; that we would not raise one-half a billion dollars' worth of revenues.

On the other hand, it looks like if we do not raise some, we are going to get less services. You gentlemen speak of needing locks;

we need improvements. We need to keep building Tombigbee. We are 70 or 80 percent complete.

It will still take several hundred million dollars to do it. Assume we are barely going to keep up with what we have.

We are going to probably cut back on construction, and everyone is going to suffer then. I think I am almost of the opinion that there is going to be a trend toward this.

That is why it is so important. We need your criticism of the 205 study and what is good about is and what is wrong with it.

You mentioned that you have to take all subsidies for transportation into consideration. That is true, but I think the Reagan program is doing that. If you don't think so, see how we are cutting back in some of those other things. That is still not dropping the growth in government.

I am not saying it is because of programs like you gentlemen have had in the past, but everything has to be taken into consideration. My State is interested in water development, too. We recognize this.

My State gave up 500,000 acres for a lot of great promises under the loan.

We have never seen a bit of it yet. We still have to see some of that. We have, what, 50 million dollars' worth of authorized projects that has never been started, $50 million that we haven't even started. It has been OK'ed by Congress and all the States asked us to build them. We haven't got a program off the ground.

I am doing too much talking. I am not supposed to be testifying. But I just want you to know where we are at.

I think we need from you gentlemen the best of your thinking other than just the fact that you are opposed to it. If we are going to have some sort of tax, we want—even if you don't like it—we would like to hear your thoughts on it. Who said here a moment ago you would like a uniform approach?

Mr. CARLSON. I did.

Senator ABDNOR. Mr. Nichols said he changed his mind on this?

Mr. WILKINS. I think the industry agrees with this, too, that we should have a uniform tax. A segmented tax would be almost impossible to put together and administer.

Mr. WILKINS. Does that apply to both O. & M. and construction or just O. & M.?

Mr. BRAYMAN. Just O. & M.

Mr. WILKINS. Still speaking on segment-specific on construction? I am asking.

Mr. BRAYMAN. I am not used to this. The program, as I understand it, the legislation has not been sent up yet, but the third version has not been sent up.

As I understand what it is, they are saying only construction costs after enactment and only amortized on construction over 50 years or whatever it is; after the water-way is over, so you would, on waterway investments after enactment of the law, you would have under the Reagan bill recovery, segment-specific recovery on those costs, but it would be a uniform charge otherwise.

So that on the projects such as—I guess Tenn-Tom would be included under the Reagan process—there would be the $200 or $300 million; the residual money would have to be recovered.

Senator **Abdnor**. Let me ask one question. I am curious. How many rail cars does it take to make up one barge?

Mr. **Powell**. That is 15 100-ton railcars or a 1,500-ton barge.

Senator **Abdnor**. How many bushels of grain would that be?

Mr. **Powell**. That is 3,500 bushels in a railcar and 40,000 to 50,000 bushels on a barge.

Senator **Abdnor**. Let me have your name on that. That would be valuable information.

Mr. **Powell**. Billy Powell. I will be up there in a minute.

Senator **Abdnor**. Oh, all right. That is right, you will.

Senator **Denton**. I have been in an intense, quick study on this problem. I defer to Senator Abdnor and his staff totally. I do believe from what I have learned that I don't think they disagree with that, that although we are all with the President on his intents regarding balancing the budget eventually and we define that which is the source of jobs, production and so forth; namely, the business sector, when we address this problem of user fees and this waterway, I think we are short on the answers to philosophical questions on fairness and equity because we are limited to studies which do not provide the data upon which to base those philosophical judgments on fairness and on economic pragmatism.

I have found no disagreement with the people on that airplane flying down here on that subject. Section 205 does not do it.

It is a step, but it is nothing more than a step. We need more data. We need more study of the interrelationships among this data.

For example, if you look at the Government's approach right now, as I see it, we are looking at paying for a certain portion, either 100 percent or 75 percent of the so-called navigational O. & M. costs for that year. You estimate those; you come up with a fuel charge, and you come up with some other kind of user fees to take care of that.

I wonder if that isn't a terribly short-sighted way to look at it. For example, how much customs is collected by the Federal Government as a result of international trade which could not exist without deepwater ports and the transportation by water already?

That is revenue for the Federal Government. How many overseas markets can or could be maintained and developed were this waterway to be put into place and viewed as an investment over a longer period of time rather than a year-by-year process which is one of the stupidest things we ever did in the military?

We don't look at 5-year programs. We are starting to do that.

The efficiencies in intrastate and interstate transportation of goods would make it cheaper for the consumer and therefore you will have more propensity to save, which is a big factor in this economic recovery. I am being told, Senator Abdnor, that in Japan, for example, they pay more to service their deficit than we do. We are paying about 30 percent of our revenues for servicing the national debt, which is tremendous.

The Japanese pay more than that, but in Japan, the citizen is saving—they call it the propensity to save—20 cents on a dollar.

We are saving about a nickel on a dollar in the United States. The reason is, we have had inflation, big inflation, double-digit inflation which means the individual doesn't want to save his money because he knows he has got to buy the product this year with those dollars because next year the price is going on up.

Now Reagan has brought inflation down to a single digit, very low, and it is staying down for these months and I think it is going to stay down for this year. If that holdover works for awhile, there is going to be a greater propensity to save for the average citizen in the United States.

That means there will be more money to lend because the citizens are not borrowing it from the banks. That means the interest rates will come down, and businesses will be able to go for reindustrialization and so on. It seems to me that those are the kinds of factors we have to look at as we approach this problem rather than the simplistic question about 1 year's cost being recovered.

I know that the other gentlemen on Senator Abdnor's committee and his staff know a lot more about this than I. I am learning from them.

That is how I got these impressions. I don't want you to think that they have any simplistic solutions, but I think what we would be interested in here today, as Senator Abdnor looked upon, is whatever study will contribute. He knows we don't have enough data. We would also like to know what you think are the most effective factors for inclusion in any kind of a plan for assessing user fees. I have got a feeling there is going to be some user fees of some kind assessed.

What we need is what is fair? What will traffic bear? It seems to me you have got to prime the pump with some Federal money first, an investment type of thing rather than starting to pay for it year-by-year from the beginning, because that is going to limit the amount of traffic because it is going to make it impractical, uneconomical to ship. If you get enough guys using the waterway, then you can have a lower user fee. It seems like you have to find the mini-max on there. I don't see any data anywhere that approach the Tennessee-Tombigbee on that basis. Is there something called the port harbor study? It is a step that is moving in that direction; to look at this particular waterway and see what is fair and pragmatic.

Senator ABDNOR. Thank you. I guess what we are trying to say is any information you can give us, including your statements here today, I suppose you all have copies of that study by now. You must have areas where you have strong disagreement; some of the points you may have brought out here.

If you really have some concrete facts here, we would like to have them. We are not down here trying to sell anything. We are out here to listen right now as we get into this.

But I do feel that the pressure is going to be on us to come up with something, because I think the Budget Committee may make it that way. If you want to see any water programs, anything new started or any new locks going into place, I just think we have got to be realistic. We appreciate your help and we appreciate your coming here today and giving us your views.

Thank you.

Senator DENTON. Senator Abdnor, with your permission, before you introduce the farmers' panel, may I ask that we recognize the board of directors of the Alabama Grain Dealers' Association and permit them to stand so you can have a look at them? Senator Abdnor is really one of them.

Senator **Abdnor**. Thank you. We welcome you to the committee. I wish we had time to hear everyone's thoughts because I know the farmers play an important part in this overall program in transportation facilities, and they are very important to their operation. I know the bind they are in, too.

Senator **Denton**. If I can add to that, Senator Abdnor is being very polite. It always gives us a sense of release and relief and ego satisfaction, I guess, to state these verbally, but they are going into the record. If there is any way you can summarize them, you may be sure that Senator Abdnor, Mr. Brayman, and the others will very carefully peruse every word of your testimony.

Senator Abdnor is on a tight schedule. We are supposed to leave here at 12:30. We do owe him gratitude for coming down here. I think we should reciprocate by trying as best we can to curtail any unnecessary verbalizing of testimony which will be considered in writing.

Senator **Abdnor**. Thank you, Senator. I am just trying to say that we want to let everybody get a chance to be heard. We have picked up a number of other witnesses if it is possible to work them in.

At this time we will have the panel of farmers, Mr. Sharp, Mr. Tolar, and Dr. Powell, come up. We have a doctor in front of the farmers here. I don't know, Mr. Sharp; maybe this is coincidence, but your name is first.

STATEMENTS OF JOHN SHARP, FARMER, JAMES TOLAR, FARMER, AND WILLIAM POWELL, VICE PRESIDENT, LAPEYROUSE GRAIN CORP.

Mr. **Sharp**. Thank you very much, sir. I am John Sharp. I farm some 1,200 acres of rowcrops, corn and soybeans, in a small community near here called Grand Bay. I farm in partnership with my father-in-law, without whose help it would be impossible for me to farm on it. From the outset, I would like to say what a privilege it is for me to address this gathering.

A few days ago I was in a small country store in a nearby farming community. I was asking directions to a farmer's house to whom I was delivering some seed corn. While there I purchased a pack of gum. When I picked it up I noticed a sheet of paper on the counter. It was headed petition to Representative Jack Edwards and Senator Jeremiah Denton and in bold caps were the words "user fees" written. It impressed me that here on this country counter were signatures of hardworking folks in rural areas concerned about more taxes and increased prices for their crops and goods.

They, as I, recognize that user fees are not exclusive to shipping and barge syndicates but it affects all of us, the working folks of this country. In other words, user fees are, in essence, us fees. It is going to have another negative effect on all of us.

The point I am making is very simple, sir. We cannot afford more fees, taxes or charges.

Gentlemen, although I farm full time, I also promote a small country auction who specializes in farm equipment. For the past 4 weeks, since we announced that we were having a sale on March 13, I received calls from five farm friends who wished to totally liquidate their equipment assets. Senators, without equivocation, the bottom-line price has an aggregate total of three-quarters of a million dollars.

I hope this figure startles you, because this personifies the beginning of the end of the American farm family. In my conversations with them, I feel like a mortician hearing the last wishes of a bereaved family, and that is exactly what is passing: a way of life.

This is the beginning of the end of the American farm family in dollars and cents and tears. User fees is another nail in the pauper's coffin that the unknowing, uncaring, public is burying us in.

Incidentally, if either of you would like to purchase a $45,000 tractor or a $100,000 combine I would be delighted to negotiate a deal with you at the end of this hearing.

While levity is intended, the cost of the equipment is appauling, and the price of our crop is putting us out of business. Simply, the American farmer can no longer afford to feed the world. We cannot even afford to feed our families.

The property taxes alone in this State will increase 600 percent this year. How can we afford to plant soybeans at $6.13 per bushel on an average of 28 bushels per acre? We lose $11,000 on every 250 acres we plant if we do not have good management qualities.

I have read with interest, the testimony delivered by the DOT study by the distinguished Secretary of Transportation whose study is mandated by Public Law 95-502 titled Inland Waterway Revenues Act—1978.

First it is my understanding that this study is mandated under act 205 would be completed prior to any discussion of the imposition of user fees. The fact that user fees are currently being charged and a schedule for their escalation is already in place. The fact that we find ourselves here today discussing the imposition of addional fees causes me to wonder whether the whole process of law and regulations relating to navigation to inland waterways is not just political football which is prone to bounce in any direction depending on the inclination of the administration or of a particular secretary or administrative officer.

In closing I should like to emphasize this point: That the farmers of this State are opposed to the imposition of user fees on the waterways, and furthermore, we simply cannot afford it.

Gentlemen, thank you for your kind attention and the invitation to speak to you today.

Senator **Abdnor**. Thank you very much, Mr. Sharp. We appreciate those comments because I know you know what you are talking about. I see farm sales taking place out in my area in the Midwest, too.

Mr. Tolar?

STATEMENT OF JAMES TOLAR

Mr. **Tolar**. I would like to thank you, Senator Abdnor and Senator Denton, for the opportunity to be here today. I am James A.

Tolar, Jr. I am a farmer in west central Alabama. My farm produces about 75,000 bushels of soybeans; 20,000 bushels of wheat and 18,000 bushels of oats each year.

My dairy produces 2½ million pounds of fluid milk. Each year that I produce these products, I must purchase 1,095 tons of dairy feed; 821 tons of corn, approximately 27,366 bushels; 600 tons of fertilizer and over 100,000 gallons of fuel.

In addition, I am the owner of Tolar Fertilizer. We sell approximately 5 percent of the fertilizer used in the five-county area surrounding me. In addition, I own and operate the Tolar Lime Co. Each year, we import 4,500 tons of fertilizer into Union Town. I am vice president of the Union Town Elevator Co. which trades about 2.4 million bushels of wheat and soybeans per year. I am also director of the Central Bank of Union Town and a member of the Alabama Farm Bureau Soybean Committee, and I am fourth vice president of the Alabama Farm Bureau Federation.

I am very confident that the comments I make here today will reflect the feelings of all my neighbors.

I am not going to read all of my testimony. I am going to take just a moment and discuss it.

Senator ABDNOR. I assure you, it will all be placed in the record.

Mr. TOLAR. Thank you.

The first reason that I oppose the fees is we just can't afford another one; first, in principle, because I strongly believe that the public is served to a higher degree than the cost and development and operation of a waterway system.

I say this for two reasons: One, the farmer is already subsidizing the price of food in the domestic market through increased production costs and so forth.

At the practical level, I contend that in my experience and in the experience of my neighbors producing and marketing the products of our farms, the farmer pays the freight. I know of no instance when we have individually or collectively been able to pass these costs forward to buyers or to our ultimate consumers.

To me, this is the most important point. For example, the difference between the price we receive and the daily quote for wheat or soybeans over the Chicago Board of Trade is a minus 40 or 75 cents per bushel. This is called basis. It is the price I pay for freight and handling between my farm and the Port of Mobile. While this basis may fluctuate, I have never seen it at zero.

Today, the Chicago Board of Trade is approximately $6.70. We have about a 50-cent basis, so the farmers get 70 cents for their soybeans. These are rough figures, now, because I haven't called a quote in.

I therefore basically appeal to you not to impose user fees for waterway transport on either the input to or the products of agriculture.

I thank you all for letting me testify here today.

Senator ABDNOR. Thank you. We appreciate your fine statement and all your figures and facts. I am sure they will be taken into consideration.

Senator ABDNOR. Doctor Powell?

STATEMENT OF WILLIAM E. POWELL

Mr. **Powell**. Thank you, Senator. My name is Billy Powell. I am a native of this area. I own a family farm that we have with a couple of miles of front on the Tombigbee River in the country north of here. I have also just been recently elected president of the Alabama Cattlemens' Association which represents about 16,000 cattlemen and agri people throughout the State of Alabama.

I, too, would like to thank you very much for the opportunity for permitting me to testify before this committee today.

I am also employed as vice president of the Lapeyrouse Grain Corp. here in Mobile which is a locally owned company that has been in business since 1959 buying soybeans, wheat and corn from farmers in Alabama, Mississippi, Florida, and recently we have expanded into Kentucky and Georgia. I would like to speak to that point briefly.

We operate a number of our own tugboats and barges and have a good number of leased railcars where we move grain from these elevators into the Port of Mobile for export.

We use trucks, barge and rail transportation. You have heard from the director of the docks, Bob Hope, and some of the other figures on the advances at the docks, the expansions in the grain elevators. We have had a lot of advances in technology and grain production with the completion of the Tenn-Tom and coupled with the world demand for food and the importance of balance of trades to our country, we see a real potential for more and more grain to be moving into this facility for export. This is provided, of course, that we can compete in the world market.

In Alabama this past year, we had a tremendous expansion in the wheat crop. It alludes a little bit to the potential we had. We went from about a 6- to 7-million bushel crop being what we produced over the last 10 to 15 years to about 25 million bushels. Much of this is along our waterway system and it did move to Mobile for export by barges.

Senator **Abdnor**. Where is the greatest market for that? Is that a south wheat?

Mr. **Powell**. Yes; south bread wheat, and most of that went to China. We move about half of the local crop into Mobile by barge.

We, along with the State docks through its inland docks system, have made a large commitment to the agricultural industry located along our inland waterways. Over the years, because we were able to use the waterways with its historical low transportation costs, we have been able to operate these elevators economically which has been a direct advantage to the farmers.

This mode of water transportation has netted them from 5 to 10 to 20 cents, in some cases, extra for their crop.

As was previously stated, this past year 5, 10, 15 cents a bushel may well have been the difference between a profit and a loss of some 3,500 farmers that harvest grain to our elevators located on the waterway system.

In an effort to kind of understand what the impact of this would be on our grain industry, I, too, have looked over this proposal 205. We are quite concerned about a number of erroneous presumptions included in this report relating to the grain industry.

I thought maybe that was the only thing that it made some errors in, but from previous conversations, I can understand why I don't see anybody's name on the report.

Senator ABDNOR. When you have time, if you ever have the time to analyze that and if you have some thoughts on it, we would like to hear from you.

Mr. POWELL. Thank you very much.

We are opposed to the user fees for the simple reason that this will be passed directly back to the farmer. We just don't see under the current economic situation how the farmer nor any other segment of the grain industry, for that matter, could afford to absorb these additional costs.

As a rail shipper, we are also concerned about our farmers in areas that are served by rail, elevators served by rail; that they, too, may well get less for their commodities because their transportation costs may well increase if the water transportation costs increase.

To illustrate—and it was pointed out in this study that the grain industry may well absorb the nickel or so, as they brought out, a bushel. To illustrate why the user charge will be passed back to the farmer, let me briefly describe how we, and I assume most people in the grain trade, compute prices of the grain paid to the farmer at Union Town at these inland systems. This is simply done by subtracting a set elevation fee, which is the cost of operating the elevator and paying salaries and hopefully to provide a margin, that we would subtract the elevation costs plus the transportation costs from that elevator to the export point here in Mobile from the world market or the Mobile market for grain. Any increases in the cost of transportation simply lowers the price that the farmer will receive at the inland elevator.

Any significant reduction in volume at that elevator because of movement to a more competitive mode of transportation would also add to his lower price because you would have to increase that elevation cost of operating that elevator.

I have an example here which looks at two elevators. If they both have a dime per bushel elevation charge and one has a ten-cent-per-bushel transportation cost to Mobile and one has a 25-cent-per-bushel transportation cost, then the farmer would receive 20 cents at this elevator A, the dime plus the dime, under the current Mobile price and 35 cents a bushel, a dime plus 25 cents transportation, at elevator B.

If elevation costs increased a nickel, then the farmer would receive 25 cents per bushel under that elevator A and 40 cents a bushel at elevator B.

It would just be a direct passback to the farmer. These figures in no way reflect the world grain market and would be the same if grain was selling at $5 a bushel or $8 a bushel. This study alluded to the fact that if the grain market in a year's time, the world grain market would swing $2 or $3 it would be easy for the industry to absorb the nickel, but this is not the way the grain trade works at all.

The real point of concern is that the selling price is determined by the world supply and demand and has no relation to the cost of production. This is very evident today when the current market price for many of our commodities is well below the farmers 'cost of producing that particular crop. Thereby you see a number of sales where the farmers are going out of business.

Another real concern that we have is that in the past years, the United States has enjoyed a big advantage in its grain exports largely because of our historical cheap transportation. One has only to look at transportation costs in Brazil and Argentina to understand what we are talking about. Due to the increasing competitiveness of the business and the aggressive competition that other grain-producing countries are giving us, the United States is fast becoming a residual supplier of grain rather than the main source of grain to many grain buyers. Our great country simply cannot afford to lose any more of our competitive edge resulting in a still smaller share of the world grain exports.

Before any more user fees can be applied, the real user of the inland waterway system would have to be determined. It is apparent that recreation, sport, flood and erosion control, the national defense and hydroelectric interests are also users and, as you stated in your opening remarks, that the consumer is the real user.

This alludes to the whole problem that we see in agriculture which is how can the farmer pass on costs to the consumer? There is no way to do it. We just haven't found a way.

You really wonder how long can the consumer in this country keep enjoying the cheap food policy that we have been able to maintain? What would the impact of another 2, 3, 5 percent of the consumer's disposable income to food; if that had to bail out agriculture, what would be the impact on our consumers?

We urge your committee that before any decision is reached, as you have already alluded to, we hope more study can be given to you and more accurate information, especially on the workings of the grain industry and the impact of any user fees on the farmer and the agricultural economy.

Again, we would like to thank you very much for this opportunity to testify before you this morning.

Senator **Denton**. Senator Abdnor, if I may explain, Dr. Powell is not just an obstetrician who happens to farm. He has a Ph. D. in agriculture from Auburn University.

Mr. **Powell**. I would probably have been smarter to be the other, though.

Senator **Denton**. I noticed that.

Mr. **Sharp**. I left it out when I was making my statement but there is one point, to me, that is important for the farmers that we are going to have to pay for freight up the river as well as selling our grains; we are going to have to pay for fuel, feed, and fertilizer, and this is going to increase the farmer's cost again.

So we are going to get a double-barreled effect on the increase of the user fees. I really don't think we can afford it. Thank you.

Senator **Denton**. We are fortunate to have a man here. May I recognize him? This gentleman has been most helpful to the farmers in Alabama in representing them to our office up there. He is Dick Dukiel, Government affairs director for the Alabama Farm Bureau.

He has helped us an awful lot, Senator Abdnor, during the Senate debate on the 1981 farm bill. He really was a valuable gain to this State and to the agricultural sectors of this country.

Senator Abdnor. I can hear that. I think I should bring Dr. Powell to my Joint Economic Committee. I am chairman of the Subcommittee on Agriculture. We are trying to prove just what you said. I don't think the economists of this country have any idea of the great contribution that agriculture makes to this economy. We have to do it by selling food below costs. Indirectly, I think that is a great contribution.

Senator Denton. Let me say something for Senator Abdnor to your farmers.

There isn't anything you have not said that he did not say on the way down in that plane. Whatever user fee set-up is imposed, he recognizes that farmers just can't hack any more increase on their costs more deeply than I think you expressed it.

Senator Abdnor. Thank you, Senator.

Incidentally, you may be interested in knowing that sometime next month, I think, we are hoping to bring back a number of the former Secretaries of Agriculture. I think it would be very interesting to have those people tell us what they think about agriculture when they don't have a boss to work under.

Senator Abdnor. How do the freight rates and the barge rates for grain compare down here per bushel?

Mr. Powell. We have got points, elevators that we operate that there—we have got some points on the grain coming from Demopolis and Tuscaloosa where you get a pretty straight shot and we can bring a full barge, 45,000 to 50,000 bushels that the freight, the barge rates would be significant to a farmer in that area that might be getting a dime or 15 cents more for his grain.

We have got other points over the Tri-Rivers, the Appalachicola to Montgomery. We can't come down the river with a full barge, so there, some elevators, the barge is raising the rail rate; it may not be a lot of difference.

Senator Abdnor. Fine; thank you.

Mr. Powell. You have to come out with one-half a load.

Senator Abdnor. Have you got any figures on the actual costs on a per-bushel basis?

Mr. Powell. I can get those for you.

Senator Abdnor. We heard in Washington that the proposed rates under the administration's proposal would amount to about 70 cents a bushel; I better fix the destination. That was in Minneapolis. You would not have time to study that, but I wonder if that is the total. I would point out to you that it doesn't sound like much, 70 cents. If you take it on the gross, maybe it isn't much, but when you figure out what the net is, it is a lot.

If you have any views on the user rates, we would like to hear from you.

Senator Denton?

Senator Denton. I have just one question. What are the rates and flows of the commodities transported down our waterways now? Do you have any ideas of just the relative ranking of them? What kind of commodities are they? Do you have any goods?

Mr. **Powell**. Soybeans would be the largest movement as far as tonnage. This past year, wheat really jumped up; corn, for export, mainly along the southern part, but a real big movement of soybeans and last year, wheat in the central part of Alabama.

Senator **Abdnor**. Gentlemen, I thank you for coming. I guess we better move on here.

Before I go on to the next witness, again, I will remind Dr. Powell, we will be looking forward to seeing those figures if you can supply them to us. We would really like to have them.

I will bring up Mr. Lanier. I am sure your ears are burning since you are with the Louisville & Nashville Railroad.

Mr. **Lanier**. Correct.

Senator **Abdnor**. We have the same situation in our areas of Washington. I would like to hear from the railroads.

You are with the Audubon Society?

Ms. **Jones**. That is correct.

STATEMENTS OF PHILIP M. LANIER, LOUISVILLE & NASHVILLE RAILROAD AND MYRT JONES, AUDUBON SOCIETY

Mr. **Lanier**. Senator Abdnor, Senator Denton, thank you very much. I was going to comment that it was just me up here looking at the panels that have preceded me. I have been scared by the comments that have been made in the testimony a little bit in the old Baptist sense.

I have filed my statement. While I plan to read that actual work or summarize it, I will shorten it.

Senator **Abdnor**. I assure you, the whole statement will be placed in the record.

Mr. **Lanier**. I understand that, sir.

Gentlemen, you would think that we are talking about a farm program today. We are not. We are talking about an aid to a broad spectrum of industry throughout this country. The farmers, I well know as you well know, need a program of assistance. This is not a program of assistance to the farmers of the kind that they need. It is one of the most highly inefficient ways of aiding the farmer and others in actual need that you could possibly create.

When you look at the entire group of people who are helped by this program of waterway that is provided by the taxpayers, you will find that it is shared in by a lot of industry, a lot of large companies, some of our most profitable companies; some who don't need any government assistance.

To the extent that through the provision of free transportation, rights-of-way, to those who don't need it, this support, this is a diversion of funds from those who do need it.

I heard a wonderful word down in south Georgia the other day. To me it describes this program that we have followed for all of these years in these United States. After the time—and there was a time when it was great to promote an alternative mode of transportation—there was a program of aid to the railroads. There was a program of aid for the waterways. There was a program of aid for the highway carriers, et cetera.

We have phased them out or we are phasing them out except for this last one, because when an industry becomes mature, though there may be a valid and strong reason for helping a few still, when the industry is mature, aid is going to those which are immature and have had a chance to go it alone.

Let me refer to that word. I heard a friend of mine down in south Georgia speak about a situation. He was pretty confused. He said it was "all bumgumfeezled up". To me this is a farm program. It is all bumgumfeezled up.

Several years ago, in 1973, 1974, and 1975 the biggest Rolls Royce agencies in this country were in New York, Los Angeles, Miami, and Pikeville, Ky. Pikeville, Ky., is in the heart of the eastern Kentucky coal fields. The owners and many of the operators in Pikeville, Ky., were making so much money that they had a major Rolls Royce Co. over there in the mountains. Those people don't need help of this kind.

If the money that goes to support that kind of assistance is redirected to the farmers who need it, let's get a farm aid program that does the job. It has been said here that the waterway users oppose a user charge until all support of all forms of transportation is removed. I say let's go. Let's get started. We are ready.

President Reagan's program has gotten started on both counts, as I believe Senator Abdnor pointed out awhile ago. Let's go right on with it. We are ready. We believe in a competitive marketplace. We believe in getting this job done.

We believe in a program in this country of a mixed economy where aid goes to those who need it and does not go to those who do not need it. It was not the railroad industry that requested that all of the Penn Central be preserved when the Penn Central ran into a reorganization. That was not our proposal, because we know that there was too much railroad line in the country.

We knew that a program of Federal aid was going to preserve some needed rail capacity. We believe that is true today in this particular instance.

Opponents of the study will always ask for more study. It is an old game. I have played it. There is always something wrong with a study that you do not like. It is usually the conclusion.

The section 205 study does not stand by itself. It stands against a long history of one study after another, all of which have talked about the impropriety of continuing a broad-scaled, taxpayer-supported right-of-way for the water carriers.

It promotes inefficiencies; it promotes those who do not have a place, and it does not get the help into the places where it ought to go. In recognition of the time element, I appreciate the opportunity to speak.

I have elaborated on what I said, and I have been very gratified in being able to be here. Thank you.

Senator ABDNOR. Thank you.

Do you have a statement, Ms. Jones? I mean, do you have a written statement?

STATEMENT OF MYRT JONES, PRESIDENT, MOBILE BAY AUDUBON SOCIETY

Ms. JONES. Sir, I don't know if you can make heads or tails of my statement.

Senator **Abdnor**. You have to hold it down to a minimum because a number of others have requested to speak. You can submit something in writing if you like. The record will remain open.

Ms. **Jones**. This was the notice that I came across at the first of the week. As you know, we are volunteers. I was able to get together with a couple of members and last night and this morning, I typed this statement.

Senator **Abdnor**. Why don't you summarize what you care to say?

Ms. **Jones**. Sir, Mr. Abdnor, this area is bombarded with promoting inland waterways at all costs. They do not allow citizen input and awareness. They promote something and then we are handed a statement to read.

So that is why I would like to read this statement if——

Senator **Abdnor**. How long is it? I just can't give you 15 minutes.

Ms. **Jones**. It would take 10, maybe 15 minutes.

Senator **Abdnor**. In Washington when they come in, we hold people to less than 5 minutes. I am sorry.

Ms. **Jones**. Another thing is all these other previous gentlemen have moneys to pay for their trips to Washington.

Senator **Abdnor**. That is not true. I mean, you have representatives in Washington just like these groups here. I have got a number—we always allow environmentalists to come in to be heard from.

Ms. **Jones**. I know, but many of us cannot afford to go.

Senator **Abdnor**. I know. Please summarize what you have. Put everything in writing. I assure you it will be reviewed and looked at. I am not trying to shortchange you.

Ms. **Jones**. I wish I had known I would not be allowed to read my statement.

Senator **Abdnor**. If you want to read it last, I will bring it back later.

Ms. **Jones**. I will try and go through and summarize.

A few parts that I hope will continue is the Corps of Engineers had citizen advisory committees. It allowed those of us that wanted to be in on preliminary planning on port and inland waterways to be part of that program. They are now eliminating that program. I think it is a very serious thing to do.

The planners and the promoters of Alabama's inland waterways and port developments have a serious case of tunnel vision; they see the economic benefits that will accrue from inland waterways, but they do not look at all the social and environmental impacts that result. They destroy neighborhoods; they have blinders and they are, therefore, promoting costly projects that we, the taxpayers, have to pick up.

Our cultural and social way of living is being modified which we put great emphasis on in this southern part of Alabama. Our quality of life is changing, and this is threatening our communities' health and natural resources. It is changing many values that we take for granted.

The Reagan administration proposal to repeal the rules developed by the Federal Water Resources Council while reviewing proposed water projects and replacing them with nonbinding planning guidelines will be an open invitation to continue more blatent pork-barrel politics such as the Tenn-Tom waterway and the Black Warrior-Tombigbee systems.

The reason I am knowledgeable is I was on these citizen advisory committees, and I am well aware of what has been proposed in these waterways.

We have been hearing quite a bit about user fees being passed on to the farmers, but those of us that go to the stores pick up where the farmers leave off. The cost of food in the stores is being passed onto the consumers. So we realize that there is a problem. We understand the administration is trying to cut many programs and many of them upset us a great deal: The Clean Air, the Clean Water, the Endangered Species, just to mention a few, and all these have to deal with inland waterway systems.

You mentioned—I forgot the amount—but the Tenn-Tom keeps accelerating on the cost. Each year they come before Congress, and they ask for $150 or $200 million more to complete this waterway. Under defile, they do not let Congress know that the southern tonnage from Demopolis to Mobile is in the background.

They are going to get to a point and then they are going to say, "Well, if this Tenn-Tom waterway is going to be viable, we must have that southern terminus."

Those of us that live in Mobile are really concerned about modification of this real important riverine system that is north of us. We have millions of dollars of costly flood problems in our area. If this riverine system—which you can now see a little bit through the clouds that have cleared up—if they modify this major Tombigbee waterway, will it cause more floodings in our area? How can we cope with more floodings?

In the supplemental draft EIS that the Corps recently put together, they suggested that there is going to be a loss of bottomland, hardwoods and other habitats that will possibly represent up to 1,200,000 acres of land. In this, there are losses of obliteration of close to 13,000 acres of prime farmland.

This will, in a sense, again raise the price of food. A lot of this has to do with subsidies given to programs like inland waterways and to destroy such tremendous and important areas such as our bottomland swamps. It is really hard to find the escalating costs of the Tenn-Tom acceptable when people cannot find jobs; we cannot buy food for the families; we cannot receive reasonable medical care, and we know that we are in trouble.

We hope that the administration and the Congress will look at what some of the things that the President is saying and look at some of these support of waterways and see if, really, all alternatives are being considered.

We do not have to modify a major riverine system to accomodate traffic. The Black Warrior-Tombigbee can continue to be a viable river system. There is no other modes of transportation, railways, and one system that has not been discussed is the pipeline. Surely pipelines are certainly an alternative that the Corps of Engineers refuses to evaluate like they are supposed to.

Another problem that we are real concerned about, if they are able—if you allow modification of the Black Warrior-Tombigbee system is how much sedimentation problems will that promote in the harbor and in the bay? Right now, the Corps of Engineers—and

I am on a committee—they are trying to take care of an emergency problem. They are sluffing what has occurred in the harbor. We have over 1 million cubic yards that we are trying to dispose of properly. We, in turn, are trying to project a region in the harbor called Pinto Pass as a prime wetland. We are trying to come up with alternatives for this 1 million cubic yards.

Then next year, we have to turn around and do the same thing. Sedimentation problems in our area are very serious and very economically cost prohibitive. They are threatening not only what few wetlands that we have left, but they are threatening our bottomlands and the Nation's estuary, Mobile Bay.

Mitigation has not been discussed at all. This is something that should be presented in any inland or any waterway program. The fish and wildlife has presented a mitigation plan for Tenn-Tom and this should be incorporated and funds should be provided to for proper management of this.

Major tributaries that are going to be modified for inland waterway traffic must allow some small tributaries to remain in their natural state such as the Sipsey and the Noxubee. These are just a few little tributaries that we can come up with right in this short time.

There is a major push for an energy port for Mobile, and it is very shortsignted. The major reason for deepening this ship channel is for the exportation of coal to foreign ports. The plan does not consider the potential destruction of Mobile Bay which is a national asset. Billion dollar industries depend on this estuary in remaining a healthy ecosystem for the sport and commercial fisheries; the recreation and the tourism; the tremendous investments in the homes surrounding the perimeter of the bay and recreational boating.

There are four major marinas within the perimeter of the bay. There are alternatives to the destruction of this estuary and this is the last point that I would like to make.

Senator ABDNOR. I was going to say we have got to move on. We are cheating people who signed up. Just go ahead.

Ms. JONES. I am sorry. If I had known about this—the alternative that is not being considered—and there is an international company that has approached the State of Alabama about it—is an offshore buckling port in the Gulf of Mexico.

I thank you very much.

Senator ABDNOR. Thank you and let me say, Ms. Jones, you prepare your statement and any one else that would like to; we will be happy to have it. I mean that. We look them over. Some of the points you brought out have been submitted by environmental groups in Washington, not with regard to the Mobile Bay, but a number of problems with Tombigbee have been presented. All sides have been presented up there.

Ms. JONES. The reason I was a little agitated is that this area is just bombarded with the goodies that is going to be resulting from the Tenn-Tom, and the goodies for the port development and the other side, the community needs, are just strictly overlooked and community neighborhoods have been destroyed. There are groups that—I went to a meeting last night, and the communities are trying to get together to try and find out how they can get involved.

This little booklet here, I don't know if you have seen it; it is from the National Academy of Sciences. It is very good.

Senator **Abdnor**. I know we have had comments on that before. Thank you.

Mr. Lanier, before I let you go, is there any railroad rates that are pretty much the same all over the country? Let me ask you. Railroads that operate near waterways, do they sometimes have lower rates in competition with the waterways?

Mr. **Lanier**. Yes, indeed, they do. Indeed they do, Senator. It depends upon the competitive factors of the marketplace.

Senator **Abdnor**. I have not had this thrown at me. I have never had any one prove it one way or another.

Mr. **Lanier**. I cannot give you examples of that kind. I am not a rate man.

Senator **Abdnor**. How do I get it?

Mr. **Lanier**. I would be glad to supply you with some examples.

Senator **Abdnor**. I would like to see it. Where they don't have waterways in the Midwest, they say according to how far north it is, they pay a higher rate for the same amount of tonnage being hauled.

Mr. **Lanier**. Many factors enter into the rate. Competition is one of them.

Senator **Abdnor**. Thank you very much.

Pardon me, Senator Denton. I got carried away.

Senator **Denton**. Ms. Jones has already left, but I hope someone will assure her that the men I know in this room are as avid fishermen and hunters as I am, if not more so. Like you, Senator Abdnor, we do care about the environment. I have formed a special advisory committee down here to make constant input to us on the effect on the environment not only of this program, but of other programs here so I hope that the lady will be assured that we are not ignoring that issue in the future.

Senator **Abdnor**. Thank you.

Next, we have a group of industrialists: Mr. Drummond, Mr. Sutton, and Mr. Thomason. If you gentlemen would please come forward?

STATEMENTS OF JEROME DRUMMOND, VICE PRESIDENT, DRUMMOND COAL CO.; LESTER SUTTON, PRESIDENT, DROVO MECHLING CORP; AND JOHN C. THOMASON, DIRECTOR, GOVERNMENTAL AFFAIRS, IDEAL BASIC INDUSTRIES

Senator **Abdnor**. Gentlemen, if you care to go ahead? The testimony will be put into the record in its entirety. I don't want to keep you from points that you want to stress.

Mr. **Drummond**. I will not go over my entire report that I have now in hand, but my name is Jerome Drummond. I am vice president for transportation for the Drummond Coal Co., which is a wholly owned subsidiary of the Drummond Co.

Senator, I wish you were a coal miner instead of a farmer. Evidently, after following the reactions that were just presented, it is honing in that coal is compared to the shieks of Arabia, but I assure you, we do not have Rolls Royce dealerships in Gasper, Ala. We are Alabamans. Our families settled in Alabama in 1845, and we were foreigners at that time. In 1935, Mr. Heman Drummond, the founder of our company, founded the company in which we were selling house coals to other farmers and other people in the area.

It stayed this way until 1968 when we got involved in exporting coal to Japan. Our modes of transportation were looked at: by rail, by truck, by barge. So our first exported coal was done by barge transportation.

In 1968 we moved some 200,000 tons of coal through the Port of Mobile. As the years progressed, we had very high quality metallurgical coal so we were able to be competitive with the world market's and also with our inland waterway.

In the 1980 to 1981 period, there was over 90 to 100 million tons of coal exported out of the United States. Approximately 25 million tons of this coal was exported by barge. Roughly 5 million tons of this 25 million tons came from the Birmingham area on the Black Warrior-Tombigbee system.

We, in 1982, anticipate the Drummond Coal Co. will handle 9 million tons both on the gulf and the Mississippi River and the Port of Mobile. We employ some 5,500 employees at the Drummond Co. We are the largest surface mine producer in the southeast. We are among the top 20 privately held bituminous coal operators in the United States. One of the reasons we became this competitive is because, first of all, we were very unique in having a water system that flowed right to the heart of the coal fields.

To give you an idea, you asked a gentleman from the railroads, "Are you competitive with the rail system situation, with the barge situation?" I have a plant that is located 25 miles away from the water. I have rail facilities that run right into the preparation plant.

I have to truck that coal 25 miles to get it to water so that I can be competitive on my market. I have also, with the tonnage that we have to offer, I offer these tonnages in great numbers to the rail industry. So far, they have not been able to be competitive.

Senator **Abdnor**. How much of a disparity is there?

Mr. **Drummond**. About 22 miles from the water's end.

Senator **Abdnor**. I really meant the cost disparity. How much is that?

Mr. **Drummond**. Approximately $2 to truck it down there. That is one situation that not all of our plants are located away from the water. The water splits in the coal fields. Most all of our facilities are built right on the end. We have no rail transportation from those facilities.

Senator **Abdnor**. We need this for the record. You do have rail facilities near your coal mine?

Mr. **Drummond**. We have one plant that has rail facilities located 22 miles away from the river.

Senator **Abdnor**. I would like you to tell me where you have that rail facility, how much it costs you to ship it down the river, to ship it from Mobile on out.

Mr. **Drummond.** I do not have the exact figures for you, but I would be glad to get you those figures at a later date. I am skipping around in my report.

I am trying to hurry this up a little bit, but I will say one thing: That Drummond is able to reduce the trade deficit as you are well aware. We are able to compete with other nations in the same market and the metallurgical market.

With the 205 study that I have seen, you could be handicapping the water transportation industry and causing Drummond to seek out other forms of transportation to get their coal to market. We undoubtedly will lose this competitive edge that we have had on the gulf coast. Even if the waterway remains open through the collection of taxes imposed on those benefiting from the system, I am afraid we will price ourselves right out of the market. We are now in competition not only with the United States. We are in competition with Poland, with South Africa, with Australia. We are not only competiting out of the gulf coast versus the east coast; Drummond and its subsidiaries, as I mentioned, has 5,500 employees. One-third of these people are directly involved in the exporting of coal. We feel that a loss of our competitive position could possibly lead to a reduction in the need of our product.

This could lead to a reduction of our work force, thus increasing unemployment in a State with trouble already. We appeal to you on delivering on such a vital question as this. We don't feel Congress has studied the impact of such a decision adequately.

Upon a review of the section 205 study mandated by legislation in 1978, we feel, among other things, that the question of reagional impact has not been addressed properly. We, therefore, urge you to consider the economic impact both nationally and internationally; to delay action on the present proposal set forth by the administration until a detailed, thorough study of any final proposals can be completed and thoroughly analyzed. Then and only then should this country's long-standing commitment to a federally constructed and maintained waterway system, based on a strong national defense policy and improved regional development need be examined in a different light. To a great extent, this country's commitment to regional development through reconstruction of our inland waterway system has lead to Drummond's present position in the export industry. The future of this country demands no less.

Sir, I appreciate the opportunity for you to conduct this hearing and allowing me to contribute the views of the Drummond Coal Co.

Senator **Abdnor.** I just want to ask you one other thing. I don't know if these other gentlemen are from the coal industry, but when I held deepwater seaport hearings, every port around the country was doubling and tripling the amount of coal they are shipping. We have had the greater shipment of coal happening. Do you see that happening in this country, all this coal?

Mr. **Drummond.** I did not see the surge in 1982 that you saw in 1981. One thing that happened in 1981 was you had a reaction from the oil situation in which oil prices were greatly increased. I think people in Europe—I am mainly speaking of the steam market, not the metallurgical market. I think it will be viable, but in 1982, you will see a great reduction in those figures.

I think in the future, in the next several years, you will see us come up on a scale that will not be as great a market as 1981.

Senator **Abdnor**. That is what we are getting into. We talked about deepwater ports. Every city on the coast wants a deepwater port. We are going to get all this coal, so sometimes you have to be realistic and come up with something that is a workable plan, because I just don't know if you have that many coal shipments. It would help to balance the trade in a hurry.

Mr. **Drummond**. I think the United States is in a very good position to supply coal into Europe. We are now supplying several countries in Europe. I think that in our position on the steam market, they are looking at it delivered Btu into their countries. Every mode of transportation, whether it is by ocean, train, inland, the rate of productions charges, they relate.

Last year we were in a better situation in which we can price on our escalation. We are reducing our prices from $1 to $5 on the market. There is a glut of coal into Europe at this point. The normal feeling is that the coal industry can pass these costs onto the consumer or onto some other mode.

That is not true. We, in most cases, are not working with the profit margins that most people are thinking that the coal industry is working with. We are not oil sheiks. We sometimes have found 50 cents, 25 cents to be a difference. We trade with volume. We get into smaller amounts of profit.

Those profits cannot be—we are in a competitive situation. At that time you either make a decision to close the facilities and not go into those markets.

Senator **Abdnor**. Thank you.

Senator **Denton**. Mr. Sutton?

STATEMENT OF LESTER E. SUTTON

Mr. **Sutton**. Yes. I am Les Sutton. I am from Pittsburgh, Pa. My statement sort of ties into Alabama, but my function today is to demonstrate that the effect of user charges on the economy of Alabama are not only dependent on what happens on the Tenn-Tom waterway or Mobile Bay, but that any user charges be gaged, its effects, on Alabama and must consider the entire inland waterway system as a system.

There is even a map on the back of my statement that shows the origins and destinations where my company alone shipped products in or out of Alabama. I would like to call attention to one example. There are many in my statement about how high user charges would affect a shipper.

In 1978, a group of entrepreneurs built one of the most modern rice mills in the world in Greenville, Miss., at a cost of $40 million. It bolstered the farm economy throughout a wide area of Mississippi, Arkansas, and Louisiana. It also provided 150 direct jobs. The economics of that plant were based primarily on low cost water transportation.

The rice industry is experiencing severe competitions from Indonesia and Thailand. Just last week, this customer came to us and said that unless he could make a substantial reduction in his selling price, the mill would be closed.

Although our business is in its worst financial bind ever, we agreed to a 20-percent reduction in our freight rate from Greenville to Mobile and Pascagoula to help this customer stay in the world market and keep the plant operating.

If we had had the user charge level that is projected here, we could not have met the price, and the plant would have been closed. The sale of that rice would have been lost to foreign competition.

I don't know what the farmer would have done with his rice, because economics would not have permitted him to ship it to Houston to get it processed.

Over the last 10 years, private investors have risked $66 billion of their money in investments along the inland waterway system. If high user charges are imposed, many of these entrepreneurs will lose that money. What message is the Government really trying to give these investors?

I think the message should be one and needs to be one of encouraging investment and not penalizing it by a sudden change of the rules.

We must not lose sight—and you mentioned it earlier; that President Reagan's program and the reason he is making these changes is to revitalize the country's economy. I agree with that. I would also like to point out that the theory of providing Government support only to weak or failing businesses and withdrawing Government support from efficient ventures such as the inland waterway system is uniquely U.S. economic theory and that Japan, as you mentioned, used quite a different theory to achieve their economic revitalization.

Japan's success in world markets, coupled with the dramatic difference in the attitudes of the two countries toward Government business relationships is too significant to ignore.

I believe that rational, objective efficient Government support of inland waterways would clearly speed up the economic recovery. I know that precipitious or irrational changes in transportation costs and cost relationships will have a negative effect on that recovery.

In his testimony before this committee, Secretary Lewis said he could see no reason to support the inland waterway system ". . . unless it serves truly overriding national objectives." I submit that economic recovery is a truly national overriding objective.

I want to call attention quickly to just a couple of the flaws in the 205 study. There are more in my statement, but there are also too many unknowns to comment fully, but questions as simple as to what extent the data gathered by the contractors was actually used and actually supported the conclusions given need to be answered.

Why were the conclusions of the national waterways study using the same data almost totally different than the conclusions of the 205 study? We need the underlying data to try to answer those questions.

Another observation, particularly as it relates to Alabama, is that it is impossible to measure impacts of waterway user charges when the target is moving as fast as it has in the last 12 months. The administration alone has submitted at least four different waterway user charge programs. Some were segmented. Some were uniform. Particularly in relation to Alabama, whichever one of those is finally chosen would have a dramatic difference.

How can you measure the economic effect? I don't know how these studies are going to measure the economic effect if you don't know which kind of program is going to be placed on the waterways.

I understand that Dick Walsh agreed again just Tuesday to ask his computer to spit out another conclusion based on a different set of assumptions. I am not sure how we can gage the effect on the economy until we know what kind of plan is going to be imposed.

The true beneficiaries of the waterways have not been identified. At the same time Dick Walsh was testifying before your committee and saying that all costs of locks and dams should be charged against commercial navigation, in western Pennsylvania we got a vivid demonstration of the multiple uses of one of our waterways: An accident at Maxwell Dam on the Monongahela River caused a loss of water level. Factories closed; schools closed; coal mines, and powerplants closed. Mr. Walsh's story that they are for navigation only does not sit well in western Pennsylvania. The question of equity has not been answered. The study at the same time completely ignored additional taxes to be placed on the same traffic at the same time. Again, you can't make an economic judgment on the effects on a region and ignore other taxes such as for new construction; Coast Guard and the deep draft ports. The study throughout it attempted to trivialize the impact. Senator, you mentioned this: They say only 1 or 5 percent of the total value of the goods shipped, but the decision to sell that rice or not sell it was not based on the selling price of the rice. It was based on did the producer have any margin left at all to meet competition?

As it turned out, he had almost none, so a very small user charge would have caused that plant to shut down. Any measurement of the effect of these taxes on business has to be measured against the margin, not the selling price.

In the long run, it has to be made on an after-tax margin because that is all that we have to reinvest to keep the economy vital. I believe that Government support should continue.

This efficient low-cost transportation can prove the supply side theory; that is, lower taxes can result in greater total tax revenues when you consider the customs fees and all the other fees that are generated by this commerce and that in the reverse, increased user charges can and will result in less total tax revenue. I am sure that this demonstration that the supply side theory works in freight transportation would not only advance the interests of this country, but the interest of the current administration, as well.

Thank you.

Senator ABDNOR. Thank you. That is very fine testimony. Some of your figures should be very interesting to go back with. If you have any additional ones on the 205 study and others, I would like to see them.

Mr. SUTTON. I do want to submit figures on railroad freight rates to the Ohio River. I think you will find they are very instructive as to what might happen if higher user charges are imposed because I was surprised to learn that the railroads charge a different rate on coal to the river if it is going to be used at the river versus if it is going to move somewhere else by barge.

I think that is an indication of what can happen if you allow a monopoly interest to get control of freight transportation. We can't take our trains and run on their tracks, but anyone can take barges and run on the river. That is an important distinction that doesn't get made. The river is for everyone to use and competition relates to the rates, so the savings are passed on; not true with the railroads.

You can't run your train on their tracks. I will submit some freight costs.

Senator **Abdnor**. Very good. That is what we want. We appreciate it.

Mr. Thomason?

STATEMENT OF JOHN C. THOMASON

Mr. **Thomason**. I will further capsulate on an already short testimony but would ask that it be entered into the record.

Senator **Abdnor**. I assure you it will be.

Mr. **Thomason**. I represent Ideal Basic Industries. We are a Colorado corporation with assets of roughly $1 billion of which approximately one-third of that business is represented by Government projects.

Those projects, in turn, are worked out by the inland waterway system. We have a new cement facility located some 123 miles north of Mobile and a supportive limestone quarry.

The third paragraph of my testimony simply sets forth the segments of the portion of the system we depend on and also our national tonnage.

Ideal's investments have had a very major and very positive economic impact on the south Alabama economy. During the construction phase, these projects generated roughly 7 million man-hours of employment on a payroll of about $70 million.

Our regional operational impact is likewise significant for 1982. We have a combined plant and quarry for a work force of 221 persons whose wages and benefits will approximate $7.7 million. There are substantial additional payrolls and employment in support industries.

These major investments were undertaken by Ideal in the midseventies in the good faith and with the belief that the Nation's nearly two-century old policy of providing for a toll-free inland waterway system would continue into the future.

But we were disturbed somewhat in 1978 when a low level waterways fuel tax was initiated, although the impact of this on the economic viability of our products was modest, and at that time we thought it would take care of the situation through 1985.

We are now informed that OMB proposes to eliminate fiscal year 1983 operations and maintenance funding for inland waterways generating less than 5 million annual tons which, if adopted, will close the Alabama-Coosa River system to commercial navigation; and secondly, that the administration and the Congress are considering dramatically increasing user fees in several different forms.

While we support the President and the Congress in their goals of budget reform, we would also point out that high-level user fees, if enacted, would significantly alter the economic feasibility of transporting large volume, low value commodities by water.

Senator **Abdnor**. Are you on a water line that would be closed down completely if the Government did this?

Mr. **Thomason**. We are on one of those systems, yes, sir.

Senator **Abdnor**. You would cease to function?

Mr. **Thomason**. We are on a river system, Senator Abdnor, which is authorized at 9 feet, but because of problem areas and problem periods on the river, we do not always enjoy this draft.

Senator **Abdnor**. Fine. Thank you.

Mr. **Thomason**. Again, to consider the critical matter to Ideal, please keep this in mind: We are a large volume, low value commodity mover. I would like to use our operations as a case in point.

I think that the example I am making it for, limestone, would apply as has been pointed out here, to the farm crops and to other nonfuel minerals. On the average, it requires that about 2 tons of limestone, clay, sand, and other low value raw materials be assembled at the point of manufacture to make the cement. Substantial, economically recoverable deposits of these materials are increasingly found at great distances from major cement-consuming markets. Their real value as a process material is not realized until these products are transported to the point of manufacture.

The limestone reserves underlying Ideal's Monroe County property might customarily be valued at a mere 10 to 15 cents per ton. When we remove the overburden, the limestone is quarried and stockpiled. Its value increases several fold, but the true value of the material does not come about until the material is, in fact, barged and unloaded and processed into cement. Again, we are talking at a distance of 114 miles.

So that for a company like Ideal, the meaningful difference between, say, limestone dockside in Monroe County and the calcium carbonate component for cement at Theodore is whether the cost of moving, again, at 10 to 15 cents per ton on the ground, of moving the product to the point of manufacture, whether it exceeds its value at destination.

The subcommittee has asked for specific dollar examples of the impact of proposed navigation cost recovery legislation. To avoid disclosing company confidential information, I will simply offer that the imposition of a fuel tax of 34 to 38 cents per gallon, in that range, or a 1.5-mills-per-ton-mile levy will, in effect, more than double our in-place cost of limestone. We believe this is ill-advised and ill-timed and can only further burden a basic construction product trying to weather a rough recessionary storm.

The less the water transportation adds, the more valuable it is. Anything that reduces the cost of transportation adds to the industrial strength of our region and provides the impetus for industrial development while virtually anything which increases the cost of transportation saps the industrial vitality of the region it is intended to benefit.

I thank you, sir.

Senator **Abdnor**. I want to thank you.

Do you have any questions, Senator?

Senator **Denton**. No.

Senator **Abdnor**. Gentlemen, we may submit questions to you in writing. I have a number of other witnesses that we have picked up here. We have already reached the time limit.

We thank you. You came all the way down from Pittsburgh. Tell my friend Jim Kelley hello.

Thank you.

I have a list of witnesses all asking to speak. We are limited for time. I will have them all come up: Charles Loman, Jack Campbell, James Ludwig, N. J. Barchie, Jr., and F. G. Brooks. I realize that it is a bit too many. If you just come up we will see how we can do on time. Some people may have come in and left already. I assure you, if they left statements, they will be put in the record. Is there anyone else that has a position or a statement they wanted to put into the record? If not, we will go ahead. I would just ask you to summarize.

STATEMENTS OF M. J. BARCHIE, JR., VICE PRESIDENT, WARRIOR & GULF NAVIGATION CO.; JAMES B. ANDREWS, ALABAMA POWER CO.; GEORGIA POWER CO.; GULF POWER CO.; MISSISSIPPI POWER CO. AND SOUTHERN CO. SERVICES, INC.; F. G. BROOKS, ALABAMA GRAIN DEALERS ASSOCIATION, INC.; AND JAMES HURST, AUBURN UNIVERSITY

Senator **Abdnor**. Do you have a written statement?

Mr. **Barchie**. I have submitted it.

My name is Nick J. Barchie, Jr., vice president of Warrior & Gulf Navigation Co. For the sake of saving time, I will be as brief as possible.

Warrior & Gulf Navigation Co. is a shallow-draft water transportation company currently operating 21 1,800-horsepower towboats and more than 300 barges. Our primary transportation is performed on the Black Warrior and Tombigbee River system, but we do, however, provide service to the east and west on intercoastal canals as far as Florida and Texas ports. Our main products we handle are ores and scrap metals for use in the steelmaking industry, as well as the transportation of finished steel products for distribution throughout the southern part of our country.

Our heaviest volume of shipment is coal both for export and domestic consumption originating in the heartland of the State of Alabama.

I think it is important to realize the negative effects which any substantial increases in the transportation costs of these cargoes will have on shippers and consumers.

For example, the already struggling steel industry and the export coal producers will be further disadvantaged in their competition with foreign producers. Both industrial and residential consumers of electricity will bear the burden of the higher cost of transporting coal to domestic utilities.

Maintenance of our waterways in a navigable condition is essential to the fulfillment of our mission as a water carrier. The proposed cutbacks in the budget of the Corps of Engineers show that the movement by the Federal Government to abdicate its responsibilities in this area has already begun.

The proposed reduction of $800,000 for the operating and maintenance budget for Alabama waterways for fiscal year 1983 is more crippling than it appears, since the deteriorating lock and dam structures on those waterways will require more and not less maintenance.

During the past 5 years, the Black Warrior and Tombigbee Rivers have had outages that equate to approximately 20 percent of the total navigation time available. Not long ago, the shippers and carriers were led to believe that these problems would be improved. Obviously, the cutback in services by the Corps ensure that navigability interruptions will increase instead.

These service cuts show that the administration has been misled into a willingness to turn its back on one of the Nation's greatest needs, the waterways.

The user charge proposal demonstrates the same attitude. If implemented, these proposals would simply destroy the economic viability of many waterways and communities and industries located and invested near the waterways in the belief that the Federal Government would not abandon its responsibility to maintain them. It would be irresponsible for the Congress to adopt any proposal without an adequate analysis of the net effect on the national economy and on all identifiable beneficiaries of the waterway system.

I would just like to go on further.

Senator **Abdnor**. I would like to ask you to summarize.

Mr. **Barchie**. I will summarize it.

The budget cutbacks and the user charge proposals are offered in the name of deficit reduction of budget balancing, but they really represent the potential abandonment of a national asset in which the Nation has a substantial capital investment. That investment pays off in tax revenues to the Federal Treasury from the economic activity which the system fosters in an area which would otherwise stagnate. It is difficult to understand how the administration can give such consideration to current waterway user charge proposals when such charges would appear to have a counter productive effect.

I would just like to summarize and say that I would urge this subcommittee to reject the present proposals set forth by the administration until these issues can be successfully defined.

Thank you.

Senator **Abdnor**. Thank you.

STATEMENT OF JAMES B. ANDREWS

Mr. **Andrews**. Thank you for bringing our Federal Government closer to us. I represent the Alabama Electric Cooperative, a generation and transmission electric cooperative that——

Senator **Abdnor**. You are Mr. Lowman?

Mr. **Andrews**. I am Mr. Andrews, representing them. These distribution cooperative and municipalities serve approximately one-half million consumers in the rural area.

The farmers that we have been talking about, the ones that are having difficulty with their grain shipments and things of that nature, they are having problems also with the cost of electric energy. Gentlemen, the bottom line on this additional transportation cost is it is going to cost the utility payers more money for the commodity that we are providing for them.

Right now, we have located our power production facilities on the waterways. One of the primary reasons is because of the economy of the transportation of fuel. At this particular time, today, it costs 50 percent more to ship our coal by rail than by barge. This is substantial to us, especially when transportation costs are a significant part of doing our business.

We have located these plants on the waterway because of this additional cost-cutting situation, making us able to provide power to them as cheaply as we can.

We are a nonprofit cooperative. Any additional cost is going to be passed along to the consumer, whether it comes from user fees or whatever it is. We just hope that you will consider this and give it a lot of study. We would be glad to provide any additional information that you might need.

Senator ABDNOR. You said your rates by rail are 50 percent greater than by water?

Mr. ANDREWS. Right. One of our largest plants is located on the Tombigbee River. We have both rail and barge facility delivery. The cost for bringing the coal in from the same Warrior River area is 50 percent higher by rail than it is by barge.

Senator ABDNOR. Thank you.

STATEMENT OF F. G. BROOKS

Mr. BROOKS. Mr. Chairman, Senator Denton, I am F. G. Brooks. I am president of the Alabama Grain Dealers Association, Inc. Our organization represents approximately 87 dealers in agribusinesses in the State of Alabama. We have filed a statement for the record.

Senator ABDNOR. Fine.

It will be placed into the record in its entirety.

Mr. BROOKS. Thank you.

In the essence of time, we could summarize our position by saying that we simply ask that all the facts be considered and that before a decision is made; and we feel that 100 percent cost recovery would be very detrimental to the farming industry in Alabama.

Our farmers are in a critical economic situation. The cost of production far exceeds the market price to date. Even a small increase in our charges for freight would be very detrimental to them.

Thank you.

Senator ABDNOR. Do you have any estimate of what it would cost per bushel for shipments?

Mr. BROOKS. The estimates are 6 to 8 cents per bushel increased rate.

Senator ABDNOR. From where?

Mr. BROOKS. This would be an average for the State of Alabama, beans shipped.

Senator ABDNOR. In Alabama?

Mr. BROOKS. Yes; in Alabama. We estimate there were approximately 30 million bushels of soybeans shipped by Alabama farmers last year.

Senator **Abdnor**. That is in great conflict with this 205 study again. I think they come out with a 7-cent one for grain all the way from Minneapolis. Do you have anything you can build on with that, and if you could give us some further evidence and facts—not right now, but if you want to send it in for the record, we would appreciate that.

Mr. **Brooks**. We tried to summarize that into our written statement. It is in there.

Senator **Abdnor**. Very good.

Mr. **Brooks**. Thank you.

STATEMENT OF JAMES R. HURST

Mr. **Hurst**. Senator Abdnor, I am James R. Hurst. I am in extension economics with the Auburn University Cooperative Extension Service. I am here to say something on behalf of the farmers and agribusiness in the State where my responsibilities lie to work with them.

I have submitted a statement over here. I will summarize it very quickly. I would like to add to the weight of evidence that the additional waterway user charges, in all probability, will wind up costing farmers because, based on my experience of years of regional research on grain marketing and years in the industry, the amount of goods that we are exporting into market is over 58 percent of our soybeans, two-thirds of our wheat, et cetera. Price discovery is in the world marketplace.

It has got to be passed backward to the farmers. The impact on just two commodities in Alabama and—previously noted by Senator Denton—the economic impact, as best we can measure it, this can impact on as many as 95 million bushels of soybeans and 70 million bushels of corn that we are importing from the surplus producing States.

The economic impact would be $8 to $10 million annually absorbed by agriculture based on the 5 cents per bushel mentioned in 205 and about 25 cents per gallon on fuel would amount to the 5 cents per bushel.

If you lock at the total impact, we use an economic multiplier of about 2.7 for farm income. The total negative impact or cost to other Alabamans, Senator, would be something in excess of $22 million annually.

I appreciate the opportunity to speak.

Senator **Abdnor**. $2.7 is being kind. I hear figures much larger than that.

Mr. **Hurst**. That is for the two commodities; for the imported coal and the soybeans, it would move out by more.

Senator **Abdnor**. Have you looked at the 205 study?

Mr. **Hurst**. 205? Briefly. I would like the opportunity, and I will work with certain interests in the State to put together some more data to shed a little light. We did not have time.

Senator **Abdnor**. Good. I would like to see if you can find a difference in the figures that is going to be important. If we are going to accept those figures and they are wrong, we will be off-base here.

I am not saying we are going to accept them, but we need everyone's help in trying to point the way here and what is the right figures to take into consideration in coming up with some answers.

Senator Denton?

Senator DENTON. We got those figures, and they are impressive. The testimony today, I am sure, will be valuable to our office in trying to deal with this and individuals in your capacity, but I hope, also, valuable to Senator Abdnor in his key position and to his staff. I want to thank him, again, for coming down here.

Senator ABDNOR. You were going to answer something there?

Mr. HURST. No.

Senator ABDNOR. Gentlemen, we thank you. I am sorry if we short-changed anyone. We hope that we got most of your comments. For anything you have not said, feel perfectly free to submit it in writing, and you have up to 2 weeks to do so.

Thank you.

[Whereupon, at 12:50 p.m., the subcommittee was recessed, subject to the call of the chair.]

[Statements supplied for the record follow:]

STATEMENT OF TIM PARKER, JR.

VICE PRESIDENT - PARKER TOWING COMPANY

PRESENTED TO

SUB-COMMITTEE ON WATER RESOURCES

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

U. S. SENATE

MOBILE, ALABAMA

MARCH 5, 1982

My name is Tim Parker, Jr. I am Vice-President of Parker Towing Company, a family owned and operated barge line. I appreciate the opportunity to testify at this Hearing regarding the impact of increased User Fees on the barge and towing industry.

As background, our Company was started over forty (40) years ago by my father, after he had worked his way "up through the ranks" on paddle-wheel steam boats; rising to the position of a captain. I mention this because it illustrates the nature of our industry; there is no restricted access. Anyone who can raise the capital, can enter the barge and towing business.

There are approximately 1,800 companies directly involved in our industry, the majority of which are privately owned and operated. It is this "free market entry" that has provided the competitive checks and balances to our industry and gives the shipper a wide range of carriers to choose from.

The barge and towing industry is absolutely and totally opposed to further increases in waterway user taxes until such time as the federal government:

1. Establishes the principle that all modes of transportation, benefitting from any form of federal assistance, shall be subject to appropriate cost recovery and implements such a program in an equitable manner; and

2. Performs a proper cost allocation which rationally assigns federal costs among the many beneficiaries of federal public works program.

The federal government must be evenhanded in its treatment of competing modes of transportation. To do otherwise would bring an unfair and unearned winfall benefit to one mode at the expense of others.

Congress had such fairness in mind when it ordered a study of the effects waterway user taxes would have on local, state and regional economics, the national economy, and on transportation industry competition. The so-called "Section 205 study" (P.L. 95-502), recently released by DOT, fails to comply with its Congressional mandate. Instead of an impartial laying out of facts and options, the "study" is just another propaganda piece from DOT's anti-waterway establishment. Indeed recently, in a floor speech entitled "A Study for the Shelf", a Congressman[1] described the report as "incomplete, inadequate and inexcusable." He continued, The Section 205 study falls woefully short of dealing with...realities in rushing to its glib, if useless, judgements on waterway user fees. Its conclusions are contrived facts, not derived from fact ..." We concur.

The railroad industry attempts to limit discussion of federal assistance to that given for construction, operation and maintenance of rights of way, particularly publicly owned highways and waterways. While recognizing that right of way assistance is a subsidy, we refuse to limit discussion of transportation subsidies to only that form and remind you of the following railroad "subsidies."

Federal Bail Out of Railroad Retirement System[2] - In addition to cross subsidies from Social Security, the Treasury has been authorized to spend more than $7 billion over twenty (20) years, now paying out over $350 million a year.

CONRAIL - Billions in Aid Since 1976[3] - Sure, railroads claim it's for the Northeastern shippers, yet seventy percent (70%) of the freight handled by CONRAIL originates or terminates outside the CONRAIL service area, and benefits nearly all freight-carrying railroads.

Other Direct Aid - Under the 4R and other acts, the railroads have received cash grants, federally subsidized loans and other low cost assistance. Additional federal outlays include the MARGE program to streamline freightcar marshalling yards, in East St. Louis, Illinois, in the shadow of the well publicized reconstruction of Lock and Dam 16, at similar cost, but with much less publicity and little scrutiny.

Continuing Land Grant Benefit Flow - Millions of dollars inure daily to railroads from natural resources on lands given railroads by federal and state governments a century ago. Ironically, mineral and other wealth often comes from sections of lands adjacent to track recently abandoned by railroads, yet originally granted because of an implicit promise of perpetual rail service.

Federal Railway Administration - The railroad's own government agency spends millions annually to provide no-cost inspection services and other free benefits in research and development, etc., to improve railroad efficiency and ease of operations.

Big Railroad Tax Break of 1981 - In addition to the across-the-board tax breaks given business and individual taxpayers in 1981, the railroad industry picked up a windfall of over $16 billion in accelerated tax depreciation right of way writeoffs, not available to other taxpayers. Several business publications have recently reported that many railroads will pay little or no income taxes for several years - indeed, at least one Class 1, high-profit railroad, finding itself with excess "losses," sold some to another taxpayer. Another railroad was reportedly seeking to purchase a moneymaking appliance company whose own profits could then be sheltered by similar excess "losses".

ALL GOVERNMENT ASSISTANCE, IN WHATEVER FORM, CONSTITUTES A SUBSIDY AND MUST BE FIGURED INTO ANY EQUITABLE SOLUTION TO THE COST RECOVER CONTROVERSY. Equity does not appear to be the thrust behind the Administration's current drive to impose several forms of user taxes on the water transport mode.

While willing to pay our "fair share of those services we require", we refuse to accept an arbitrary assignment of "federal overhead" to the water transport mode. Before actual consideration, let alone enactment, of the increased waterway user taxes, there must be an accurate and proper allocation of benefits among the many beneficiaries of federal water resources development projects.

We would appreciate your efforts to half this unfair and premature proposal.

FOOTNOTES

1. Representative Ron Wyden, Democrat, from Oregon, February, 1982.

2. From President Regan's proposed 1983 budget released February 8, 1982. An estimated $350 million was allocated for the Railroad Retirement System.

3. A three-part series entitled "Federal Aid to Railroads" prepared by Jessie J. Friedman and Associates, April, 1978; "Federal Assistance to the Railroad Retirement System. Book 1; Federal Aid to the Railroads.

STATEMENT OF GLOVER WILKINS
BEFORE THE SENATE WATER RESOURCES SUBCOMMITTEE OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

MOBILE, ALABAMA
MARCH 5, 1982

Mr. Chairman, I am Glover Wilkins, Administrator of the Tennessee-Tombigbee Waterway Development Authority. The Authority is a five-state organization, established in 1958, to promote the development of the Tennessee-Tombigbee Waterway and its economic and trade potential.

We appreciate the opportunity to participate in today's hearing. The Authority commends you, Mr. Chairman, and Senator Denton for holding this hearing in Mobile. It is important that those affected by the proposed increases in waterway user charges be heard, since this area would be one of the principally impacted regions if this legislation is approved.

We are most concerned about the drastic changes in national policy embodied in this proposed legislation.

Our waterways served our nation's commerce for nearly 200 years without tolls or fees until the present fuel tax was adopted in 1978. In adopting this fuel tax legislation, the Congress instituted a graduated tax increasing from 4¢ per gallon to 10¢ per gallon over a period of seven years. This was done to help preclude any severe economic disruptions caused by a drastic change in policy. Because of their concern about the adverse impacts of user charges on the national, regional and local economies, the Congress authorized the so-called Section 205 study.

We believe the recently completed 205 study is totally nonresponsive to the Congress' directives and concerns. I have attached, as part of my statement, an analysis by the Transportation Institute on the significant omissions of the 205 study as well as a critique of the proposed legislation by the Ohio Valley Improvement Association. I request they be incorporated into the record of this hearing and fully considered by your Committee, Mr. Chairman.

I believe I can say without reservations that those who utilize waterways, whether they be individual farmers, industries or shipping interests, are not seeking preferential treatment in national transportation policy. Ideally, government policies regarding cost recovery or, conversely, subsidies among the various transportation modes should incorporate equity as one of its principal objectives. We believe the proposed user charge legislation is not equitable and fair to waterway users for the following reasons.

The legislation does not promote equal and fair treatment by the Federal government among competing modes of transportation, especially between water and rail. Notwithstanding the Section 205 Study, the Executive branch continues to fail to provide the Congress with a comprehensive analysis of the various forms of financial assistance provided to these two modes by the Federal government. If the Congress fully considers all the subsidies now provided to rail, it will conclude that the adoption of the proposed waterway user charges will provide a perverse competitive edge to rail. All subsidies to rail; including an estimated $2.6 billion provided to the rail retirement system by the Federal taxpayers each year between 1983 and 1987 as reported by the Congressional Budget Office need to be considered in such an analysis. The land grants, including their present value, now enjoyed by the railroads should also be included.

A drastic change in Federal policy as proposed in the user charge legislation will have a devastating effect on the private sector. The larger so-called "Fortune 500" type industries with their diverse business activities may be able to survive such rapid departures from current policy. However, individual farmers and small businessmen will not.

For example, a privately owned company has invested about $1.5 million in construction of two small grain terminals on the Tenn-Tom. Although the Tenn-Tom is not officially open for navigation, the company has already shipped about 4.9 million bushels of soybeans and wheat during the past three years.

The first year the company was in business it was able to offer the farmer about 15¢ per bushel more for their grain than that offered by companies dependent upon rail for transportation. All farmers are enjoying better prices for their grain, whether they ship by water or rail because of the availability of Tenn-Tom.

The company estimates that a drastic change in user charges as now proposed would close its operations resulting in not only a loss of $1.5 million of private investment but a substantial portion, if not all, the profits the farmers are now receiving for their products.

The requirement that new projects, such as Tenn-Tom, will be subjected to a charge to recover capital costs in addition to the operation and maintenance expenses is inequitable. The users of these waterways are being penalized because they were not fortunate to have had their projects constructed earlier.

The Tenn-Tom was authorized about the same time as the Arkansas, the Kaskasia and some of the other recently completed waterways. Because the Government chose to complete these projects in an earlier timeframe, the users of these waterways will not be required to recover any capital costs. A policy requiring the users of those waterways now under construction, such as Tenn-Tom, to carry this additional burden of costs is unconscionable.

For consideration of segmented tolls or user charges, the 205 study has arbitrarily lumped waterways together with no recognition as to their relationship. The Tenn-Tom has little interrelationship with the Alabama-Coosa Waterway. If waterways are to be aggregated, it should be based on traffic patterns. Since most all of the commerce expected to move on the Tenn-Tom will either originate or terminate on the Tennessee or Ohio Rivers, it should be considerd as part of those waterways. But certainly not the Alabama-Coosa.

If segmented charges are to be seriously considered, the arbitrary aggregation in the 205 study requires major revisions or each individual waterway, as authorized by the Congress, should constitute a segment.

In closing, the Authority strongly recommends the Congress fully consider the full spectrum of impacts of increasing user fees for waterways beyond that now required. Such proposals could fly into the face of present efforts for national economic recovery.

It is interesting to note that only about $155 billion of a nearly $800 billion Federal budget for 1983 are actually investments that yield some long term return. Only a very small percentage of these investment funds are for natural resource development which will enhance future economic prosperity. Although our present economic situation dictates substantially more public and private investment in programs and projects that yield future returns, the proposed Federal policies for waterways as well as ports and harbors absolves the Federal government from any future responsibilities for development of these critically important resources.

This present trend to reduce or eliminate Federal investments or financial responsibilities for waterways and ports may prove to be extremely short sighted. It will have a long lasting adverse impact on future economic growth of the nation. Improved or more efficient transportation is one of the few remaining means for our private sector to increase productivity and continue to be able to compete with foreign sources.

The Authority respectfully begs you to carefully consider all the implications of the proposed major changes in the long established Federal policies affecting waterways.

Thank you.

SIGNIFICANT OMISSIONS OF THE SECTION 205 STUDY WITH RESPECT TO THE CONGRESSIONAL MANDATE IN P.L. 95-502

Concurrent with enactment of inland waterways user fees in 1978, Congress concluded that insufficient examination and analysis existed regarding the impacts of user charges on our nation's waterways. In order to facilitate future policy decisions on this subject, Congress mandated in the law (Section 205 of P.L. 95-502) that a "full and complete study" should be jointly conducted by the Secretary of Transportation and the Secretary of Commerce to examine the economic effects of waterway user taxes and charges.

The intent of Congress was that, as a basis for future legislation, a comprehensive national study be undertaken addressing both the impact of waterway user charges and the appropriate levels of user fees. Indeed, P.L. 95-502 was highly specific regarding the topics that were to be addressed in the study.

On January 29, 1982, the Section 205 report was officially transmitted to Congress. Despite the effort of Congress to outline each study component in detail, the Congressional mandate has not been fulfilled. Many of those who have reviewed the 205 report are seriously concerned that the "full and complete study", which was expected to provide a substantive base upon which future U.S. policy regarding water resources development could be determined, has not been produced. Specifically, the study completely ignores the directives of Section 205 of the 1978 law in a number of critical areas. A comparison of the 205 report with the 1978 act reveals that at least 10 Congressional directives were not addressed. These essential omissions are detailed below:

1. Subsection (a) of Section 205 directs that, "The Secretary of Transportation and the Secretary of Commerce, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget, shall make a full and complete study with respect to inland waterway user taxes and charges..."

The report contains no indication that the primary federal departments, Transportation and Commerce, consulted with any of the agencies listed in Subsection (a). The lack of reference to other agency input throughout the text of the report raises serious questions regarding the extent to which agency consultation was accomplished. It is clear that each of the agencies to be consulted has unique expertise and legitimate interest in the development and direction of federal policy regarding the nation's inland waterways system. If any one of these mandatory consultations was not conducted, the study managers did not obtain a thorough cross-section of views and, therefore, the Section 205 report cannot purport to present a comprehensive analysis of user charge impacts.

2. Subsection (a) concluded with the mandate that the Section 205 study should, "...make findings and policy recommendations..."

The Section 205 report provides no specific policy recommendations regarding inland waterways user charges on the basis of its analysis. Congress rightfully assumed that the report managers, having fully researched and analyzed the study's components, would then be sufficiently knowledgeable to develop specific policy recommendations. This directive having been ignored, Congress is now faced with the prospect of developing water resources policy without the assistance of study recommendations which were reasonably expected after two years of government effort.

3. Subsection (b) (3) directs an examination of, "The various methods of collecting inland waterway user taxes and charges, and the administrative costs of such taxes and charges."

An important factor in the utility of any user charge program is the efficiency of the collection method employed. An assessment of the administrative costs of various collection methods is critically needed to assure that the costs of collection are not so great as to be self-defeating. Despite Congressional direction in this regard, the report conducted no quantitative cost analysis of this critical element.

4. Subsection (b) (4) mandates consideration of, "The classes and categories of users and other persons on whom inland waterway user taxes and charges should be imposed."

Congress clearly intended that the 205 report would examine all the many beneficiaries and users of the inland waterways system, and give thorough consideration to the issue of those which should be subject to user charges. The 205 report disregards this issue, and in doing so omits analysis which is central to the development of an equitable and rational user charge policy. The report even absolves itself from responsibility for addressing non-navigation related waterway costs by stating that, "The issue of who should pay for non-navigation costs is well outside the purview of this study."

5. Subsection (b) (5) directs the following examination, "The waterways of the United States (including the Great Lakes, deep-draft channels, and coastal ports) which should be included in any system of user taxes and charges, together with the economic effects of such taxes and charges."

Coordination of analyses of the impact of deep and shallow-draft user charge proposals is essential to the development of rational policies in both areas. Given the current interest in expeditiously enacting port development legislation, it is now clear that the Congress displayed great foresight by directing that an examination of the impacts of user fees on the nation's deep-draft waterways be included in the Section 205 study. However, the foresight of Congress has been preempted by the lack of any consideration to the question of deep-draft user charges in the 205 study report.

6. Subsection (b) (6) calls for the study to address, "The use of revenues derived from inland waterway user taxes and charges, including consideration of changes in, or alternatives to, the Trust Fund mechanism."

The Section 205 report is silent on the issues of revenue use and the Trust Fund mechanism. Congress recognized that these considerations were important elements in user charge policy. The fact that they have not been addressed leaves central questions unanswered regarding the utilization of collected charges.

7. Portions of a lengthy directive in Subsection (c) (2) mandate examination of, "The economic effects of waterway user taxes and charges on... existing investment in industrial plants... in regions of the country served by inland water transportation... [and] an evaluation of effects on regional economies and their development, including consistency with Federal policies as set forth in other legislation."

The funds invested by private sector businesses in industrial plants along the inland waterways are considerable. It is therefore imperative that the economic effects of user charges on existing private industrial plant investments along inland waterways be thoroughly examined, especially with respect to those segments which the Section 205 report predicts will close down as a result of increased levels of user charges. However, the report provides no comprehensive assessment regarding the degree of impact on private investment in shore-based facilities along either marginal or healthy waterways.

Additionally, the mandate in Subsection (c) (2) which directs examination of the regional economic impacts of increased user charges regarding consistency with existing federal policies has not been addressed. It is important to determine to what extent the impacts of user charges will either completely negate or substantially undo what other federal policies have done to foster regional economic development.

8. Subsection (c) (3) requires an examination of the economic effects on "... (A) small business enterprise, and (B) industrial concentration and competition..."

No examination of the effect of user charges on either small businesses or industrial concentration and competition appears in the report. Federal policies have historically recognized the importance of small businesses and healthy industrial competition, and any proposal which may effect the displacement of small businesses or upset the equilibrium of industrial competition should be thoroughly analyzed prior to implementation. The 205 report presents a disturbing vacuum in this respect.

9. Subsection (e) (3) of Section 205 requires consideration of, "The need for Federal assistance to agricultural, industrial, and other interests affected by inland waterway user taxes and charges."

A central consideration in the development of user charge policy is the prospect that such charges could require new levels of federal assistance to interests subject to the user charge. Clearly, little or nothing is gained if user charges entering the federal treasury are disbursed back to those paying the charge in the form of new assistance programs necessitated by the burden of the user fee. Congress envisioned this prospect in its direction that examination be made of the need for direct federal assistance to agricultural and industrial interests subject to a waterway user charge. Unfortunately, the Section 205 study provides no analysis of this issue.

10. In relation to policy and future development of the inland waterways, Subsection (f) (1) charges the study managers to consider, "The effects of inland waterway user taxes and charges on...the achievement of the objectives of the National Transportation Policy as set forth in the preamble to the Transportation Act of 1940."

The Section 205 report fails to evaluate the effect of user charges on longstanding federal transportation objectives enunciated in the Transportation Act of 1940. The preamble to this Act established national policy objectives for America's transportation system which are integral to the question of waterway user charges. Specifically, it recognizes the "inherent advantages" of each transportation mode, calls for the preservation of each mode as an important means of meeting national needs in defense and commerce, states that "sound economic conditions" should be fostered among the modes, and encourages "the establishment and maintenance of reasonable charges" without "unjust discrimination" or "destructive competitive practices." Despite Congressional direction that each of these important policy objectives be examined under a user charge regime, no such analysis was undertaken.

Transportation Institute
February 8, 1982

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A Critique
of
Shallow-Draft Waterway User Charges Legislation

as proposed by the

Assistant Secretary of the Army
(Civil Works)

S. 810 (Amendment No. 32)
H.R. 4846
97th Congress, First Session

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prepared by

The Ohio Valley Improvement Association, Inc.
One Lytle Place, Suite 507
621 Mehring Way
Cincinnati, Ohio 45202

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A Critique of Shallow-Draft Waterway User Charges Legislation [S. 810 (Amdt. No. 32), H.R. 4846]

SUMMARY OF THE BILL

The proposed legislation provides for imposition of user charges "on commercial waterway transportation on the inland waterway system." (Section 2(a))

"Commercial waterway transportation" is defined to mean any use of a vessel (a) in the business of transporting persons or property for compensation or hire, or (b) in transporting property in the business of the owner lessee or operator of the vessel (other than fish or other aquatic animal life caught on the voyage). (Section 1)

The "inland waterway system" is defined to mean the inland and intracoastal waterways described in Section 206 of the Inland Waterway Revenue Act of 1978 as amended "by Section 106 (sic) of this Act." (Section 1(c)). The scope of this definition is discussed below.

The Secretary of the Army would be directed, in consultation with the Secretary of Transportation, to prescribe a system of user fees beginning October 1, 1981, "adequate to recover 100% of anticipated operation and maintenance expenditures of the Corps assigned to commercial waterway transportation plus an amount necessary to provide for the recovery of capital expenditures with interest for rehabilitation or replacement of existence structures completed after October 1, 1981, over a period of not more than fifty years, *less anticipated collections by the tax on fuel used for commercial transportation in inland waterways pursuant to section 4042 of the Internal Revenue Code of 1954 as amended*." (Emphasis supplied.)

"User fees on new or modified waterways completed for through traffic after" October 1, 1981, are to be phased to provide for full recovery of operation and maintenance and construction costs of the Corps, with interest, on a period of no more than fifty years from the date of initial movement of through traffic. (Section 2(e)).

For these purposes, the interest rate is to be determined by the Secretary of the Treasury, taking into consideration average market yields during the period in which expenditures are made. The interest rate on the unrecovered balance is to be updated *at least* every five years to reflect the average market yield at that time on outstanding marketable obligations. (Section 8).

The authorized schedule for user fees is to be readjusted *at least* every five years on the basis of --

> (1) the anticipated expenditures of the corps on behalf of the inland waterway system and various segments thereof; (2) corrections for actual expenditures and reimbursements; (3) the expected volume of commercial traffic; (4) seasonal and other repetitive peak demands for use of the inland waterways; (5) congestion at

> various points; and (6) any other factors that the Secretary finds reasonable and equitable.

In prescribing the fees, the Secretary is authorized to use, but is not limited to, --

> one or more of the following mechanisms as a way to recover costs of the corps from the users of the system: (1) license fees; (2) charges based on ton miles over a given segment; (3) lockage fees; (4) tolls; and (5) charges based on capacity of cargo vessels over various segments of the island waterway system.

The foregoing user fees are to be credited to the Inland Waterways Trust Fund created by the Inland Waterways Revenue Act of 1978, together with the collections from the amended fuel tax provisions of section 4042 of the Internal Revenue Code. (Section (2f) of the proposed legislation and section 204 of the Inland Waterways Revenue Act.).

The Trust Fund would be amended so that it would be available as provided in appropriations acts (eliminating the requirement for both authorization and appropriation by Congress) for operation and maintenance expenditures as well as capital improvement expenditures on the inland and intracoastal waterways of the United States.

The waterways as to which the user fee and tax provisions are to apply and for which trust fund amounts are to be available could be redefined so as to include only those specified in a somewhat amended version of the waterways listed in section 206 of the Inland Waterways Revenue Act of 1978, as distinguished from all inland and intracoastal shallow-draft waterways of 14 feet or less draft which S. 810, the earlier version of the Administration's shallow-draft user charge bill, would have covered.

The fuel tax prescribed by the 1978 Act would be amended to eliminate the scheduled increases up to 10¢ a gallon after September 30, 1985 and to impose a 15¢ a gallon tax after September 30, 1981, with a proviso that beginning January 1, 1983, and annually thereafter the 15¢ a gallon tax would be adjusted to the nearest cent by the percentage change in the "Implicit Price Deflator for the Gross National Product during the preceding fiscal year as reported by the Department of Commerce." (Section 5(b)).

Provision is made for allocation of Corps' expenditures for operation and maintenance, rehabilitation, and construction of inland waterway transportation as follows:

> (1) for projects authorized only for navigation, 90 per centum of costs remaining after subtracting any specific costs for recreation are to be assigned to commercial waterway transportation; (2) or multiple-purpose projects for which costs have been assigned to navigation, costs assigned to commercial waterway transportation will be in accord with that assignment; (3) for all other multiple-purpose projects providing navigation benefits but for which there have been no cost assignments, costs assigned to commercial waterway transportation will consist of all specific navigation costs, plust ten per centum of joint costs except that costs assigned to commercial waterway transportation for the Mississippi River and tributaries project will be 25 per centum of total project costs.

> Expenditures on construction and rehabilitation for the Mississippi River and tributaries project will be considered maintenance.

The harshness of penalties provided for "failure to pay any user fees presented under this Act" as initially proposed in S. 810 has been somewhat mitigated in the amended version. Instead of a specific $10,000 fine for each day of use of "the waterway in violation of this Act", such fine is to be not more than $10,000 for each day of violation; and instead of an absolute prohibition against operation on any portion of the inland waterway system or from using any lock on the system operated and maintained by the United States, a failure to pay becomes "grounds" for such a prohibition which must presumably be imposed by judicial decree. (Section 3.)

CRITIQUE

A. Suppression of Public Values.

This legislative proposal, like the earlier version, assumes that whatever public values may be attributable to the inland waterway system are insufficient to justify federal operation, maintenance, rehabilitation, or improvement of the system without full reimbursement of costs. The broad diffusion of benefits resulting from the federally provided and maintenanced rights-of-way and the national public interests served by it are thus trivialized. This is a repudiation of the collective judgments of Congress over the past 150 years that improvement of the nation's rivers and harbors at largely federal expense is fully justified by the public policy objectives advanced by low-cost water transportation. Such objectives have ranged from unification of the nation in the early years to economical market access for farm crops, favorable competitive influence upon exorbitant rail rates, depressed area relief, regional rehabilitation, economic stabilization, and, more recently, energy security, restraint of inflation, augmented job opportunities, and strengthening of the nation's balance of payments.

Unlike other avenues of surface transportation, the nation's waterways are a natural endowment. It is this circumstance which has encouraged their utilization in the interests of the American community as a whole and the advancement of public values such as those cited. The waterways under modern technology are particularly suitable for carrying a variety of large-volume and bulk commodities such as farm crops, bulk chemicals, steel, gasoline, fuel oil, and coal, thereby reinforcing the natural resource and energy infrastructure of the American economy. Over fifty percent of all the tonnage carried by shallow-draft vessels consists of critical energy materials. Costs of dry cargo movements are typically in the range of 1/2 to 1/5 of the charges of the most efficient carriage by overland modes. With respect to crude oil and liquid products, only large-diameter pipeline movements are carried at a cost equivalent to the waterways, an alternative almost totally lacking in feasibility for the innumerable small communities which receive these products in small and irregular deliveries by water.

Extending from the Appalachians to the Great Plains and from the states of the Canadian border to the Gulf of Mexico, and reaching into the interior, as well, from both the Atlantic and northern Pacific coasts, the inland waterways strengthen the competitive position of interior agriculture and industry in international and domestic markets. These are the circumstances which have made transportation by water a distinctive implement for the advancement of the public values which are disregarded in their totality by the proposed user charges.

The negative judgment of waterway values underlying this proposed legislation is graphically illustrated by the substitution of full-cost recovery user charges for benefit-cost analysis as a basis for Congressional decisions concerning authorization and funding of water resource programs.1/

1/ The precise mechanism by which a national system of waterway user charges on the shallow-draft waterways will determine whether or not a particular project will pay its way has not been disclosed. Proponents acclaim the user charge method of evaluation as providing a market test, disclosing users' willingness to pay. But benefit-cost analysis requires that quantifiable benefits exceed costs, usually in ratios higher than 1.3 to 1.0. Even such a modest ratio would mean a 30 percent annual return on the federal investment. This 30 percent is over and above the annual charge for interest. The user charge evaluation technique requires only a break-even result.

Under current principles and standards applicable to project evaluation, the key issues are whether national economic benefits will exceed costs and whether the project will result in significant environmental impairment or betterment. Obviously this analysis is designed to determine whether the public values exceed the federal costs.

Full cost-recovery user charges as a method of evaluation eliminate any consideration of public values, economic or otherwise, clearly assuming that such values are non-existent or inconsequential. Thus, each water resource project would be narrowly commercialized. The government would function as a proprietor, dispending services at a price rather than as a sovereign responsible for advancing the public interest. The public values would not be disclosed to the Congress in an orderly procedure by competent witnesses. Such public values would be suppressed by a charge system depriving the national economy of advantages otherwise available to the public. These values are widely diffused and include reduced costs of electric power, lower prices to consumers, conservation of energy, improved access of coal and farm crops to market at home and abroad, increased productivity through encouragement of investment, and a strengthened balance of payments through reduced delivered costs of exports and of commodities such as steel products contending with foreign imports in American markets.

B. Anti-Waterway Bias

1. Immediacy of Imposition. The proposed legislation is harshly prejudicial against inland waterway transportation. Use taxes on the highways began in the State of Oregon in 1919 with a fuel tax of one cent per gallon and have risen gradually to their present levels over a period exceeding sixty years. By contrast, the proposed legislation would impose full cost recovery upon the waterways in a single year.

2. Multi-modal Public Financing. The magnitude of present federal aid to the railroads is estimated to exceed $2.0 billion a year. Non-reimbursed Federal funding of highways from general revenues and apart from highway use taxes exceeds $2.3 billion a year, and annual roadway expenditures from general revenues by all levels of government exceed $10.0 billion. But, under the administration's bills, corresponding non-reimbursable Federal expenditures for commercial navigation on the waterways would be reduced to zero.

3. Intermodal Competitive Rate Bias. Shipments on railroad segments which are competitive with the waterways commonly move at rates which are well below 100 percent of railroad costs. These water-competitive rail segments are cross-subsidized by higher rates charged on shipments on the non-competitive segments of the same railroad system. The railroad can engage in such discrimination because it has a monopoly of access to its own right-of-way. But the waterway

carriers are intensely competitive with each other on the same waterway segment in the same stream of traffic and thus unable to discriminate. The proposed legislation would compel the waterway carriers to charge 100 percent of costs as an alternative to insolvency in competition with the below-cost rates of their railroad competitors.

If the user charge were to be differentiated by waterway segments, the pro-railroad discrimination would be exacerbated. Whereas a uniform nationwide charge would distribute waterway costs uniformly, constituting a degree of cross-subsidization within the waterway system, segmented charges would strip the individual waterway of all protection against the cross-subsidized competition of parallel railroad lines.

4. Segment Charges to Disrupt Waterway Traffic Flow Patterns. H.R. 4876 displays a pronounced preference for waterway segment charges as distinguished from uniform charges for integrated waterway systems such as the Mississippi-Gulf-Intracoastal System or the nation as a whole on the model of the motor-vehicle fuel tax. This preference conforms to the market test theory of project evaluation which underlies the cost- recovery user charge proposal.

Mounting evidence from regional impact studies discloses that imposition of differential rates on various waterway segments reflecting applicable segment costs would severely dislocate waterway oriented industry, causing a flight of capital from the adversely affected industries and areas and a consequent aggravation of unemployment and a depression of incomes. The steel complex in the Pittsburgh District and farming communities in the Upper Mississippi and Missouri River Valleys are illustrative of these impacts.

Thus fragmentation of the inland waterway system under a régime of project specific or segment charges, with consequent disruption of commerce and impairment of invested capital, both public and private, would represent a substantial economic loss to the nation.

It is to be noted in this connection that railroad capture of waterway traffic would be facilitated by segment charges as dis- tinguished from a uniform nation-wide or major system charge imposition, since the segment charge on many waterways, such as the Missouri, the Arkansas, the Cumberland, the Monongahela, and the Upper Mississippi, would be substantially higher than a uniform charge reflecting national average costs. Because the Federal costs on such a segment would be undiminished by the loss of some of the traffic to rail movement, the cost-recovery charge per ton on the surviving commerce would have to be increased, very probably on certain segments to higher levels than such surviving commerce could sustain. In such instances, full Federal cost recovery on the segment would prove impossible and, under the terms of the bill, the segment would have to be closed to traffic. Shippers could thus find themselves at the mercy of rail monopolies freed from the competitive restraint of water carriage. The strong pro-railroad bias of H.R. 4846 is conspicuous in the segment charge proposal.

5. Capital Charges Exceeding Capital Costs. Section 2(d) of the proposed legislation provides for recovery of capital expenditures with interest for rehabilitation or replacement of existing structures completed after October 1, 1981, "over a period of not more than fifty years." Section 2(e) provides that fees for new or modified waterways completed for through traffic after October 1, 1981, "shall be phased to provide for the full recovery of operation and maintenance and construction costs of the Corps, with interest over a period of not more than fifty years from the date of initial movement through traffic". The inevitable effect of these provisions would be a user charge on most projects very substantially in excess of 100 percent of federal costs.

Many such projects serve for more than the specified fifty-year maximum. Eight lock-and-dam structures on the Ohio River system, still actively in service, are well over fifty years old. Most of the locks and dams on the Upper Mississippi will have served much in excess of fifty years before replacement or enlargement. On all long-lived future projects of this character this expedited amortization would impose capital charges on the traffic substantially greater than the actual federal costs.

If the bills were to have specified exactly fifty years, an average of fifty years, or the expected service life based on actual experience, the prejudice would have been absent or less pronounced. But the drafters were at pains to make sure that no rehabilitation project or replacement, modification, or new installation would be amortized for more than fifty years, while leaving the door open to an even more rapid and prejudicial amortization with correspondingly higher annual charges.

6. Bias Against Extensions and Enlargements. The proposed legislation would severely hamper projects for extensions of the inland waterway system or for improvements to accommodate large volume increases in commodity movements. Although the legislation (Section 2(e)) provides that user fees on "new or modified waterways shall be 'phases,' this phasing must provide for full recovery of operation and maintenance and construction costs of the Corps, with interest over a period of not more than fifty years from date of initial movement of through traffic."

Lower user charge rates in the early years, therefore, would be offset by much higher rates in later years, particularly for the previously unrecovered interest charges of the phase-in period. The rates so increased could rise to intolerable levels, particularly in the event that the Secretary were to exercise his discretion to contract the amortization period to substantially less than fifty years.

7. Drastic Increases in Imputed Interest Costs to Block Improvements. Moreover, no provision is made for any reduction of the burden of interest rates for purposes of permitting traffic development on new or modified waterways. Indeed, as noted in Paragraph 9 below, this legislation proposes sharp increases in the rates prescribed by existing law. Application of such higher rates would tend strongly to nullify any positive effects which "phasing" might have on user charge rates during a traffic development period.

This legislation, as noted earlier, prescribes that the interest rate for purposes of computing costs to be recovered shall be determined by the Secretary of the Treasury, taking into consideration average market yields on marketable obligations of the United States during the period in which expenditures are made. This is a radical departure from existing law (Section 80 of Water Resources Development Act of 1975) which limits interest charges for purposes of waterway project evaluation to the yield rate on marketable government obligations having at least fifteen years to run to maturity, and limits annual increases in rates to 1/4%. The proposed legislation, by contrast, would require an immediate increase to the full yield rate -- not only the average on long-term obligations with at least fifteen years until maturity but upon any over-all government obligations, including short-term notes and treasury bills. The Treasury estimates this average yield rate at 12% to 14% per annum during the six months ending October 31, 1981.

This formula requiring application of very much higher yield rates would severely burden waterway projects and could well assure disallowance of those projects with present benefit-cost ratios of less than about 1.5 to 1. if such projects were capital-intensive.

The severity of the prejudice against commercial waterway transportation implicit in the proposed legislation is demonstrated by this provision: the drastic increase in the imputed interest rate is confined to navigation improvements; flood control, hydropower, irrigation and other water resource functions would suffer no such penalty. Yet the benefits of waterway improvements for navigation are widespread and general, as distinguished from the much more localized benefits of irrigation and certain other water resource functions. Only bias, harsh and unrelenting, against commercial waterway transportaton can account for such irrational discrimination.

No is any such formula imposed upon any other federal program of assistance to transportation. This proposed application to waterway projects in conjunction with full cost recovery user charges, strongly suggests an executive decision to discontinue further improvement or expansion of the American waterway system and to smother the system under a blanket of neglect less than benign.

8. Rejection of Federal Responsibility for Operation and Maintenance of the Waterways System. The foregoing conclusion is reinforced by the proposed inclusion of waterway operation and maintenance expenditures in the waterway user charge cost recovery obligations.

Such inclusion is flagrantly unjust to commercial waterway operators since operation and maintenance costs do not vary significantly with use by waterway carriers. Consequently, increasing volume of shallow-draft waterway transportation does not materially increase requirements for operation and maintenance. On the contrary, the factors affecting operation and maintenance activities are primarily weather conditions, such as flooding, drought, freezing and thawing; soil and hydrological factors such as run-off, river currents, rates of flow, and sedimentation; and shoreside agriculture, industrial and community development, and extent and types of discharges of municipal and industrial waste. Moreover, the benefits of operation and maintenance are widely diffused among many interests and functions, in addition to commercial navigation. These include such functions as water supply, recreation, flood control, hydropower, soil conservation, and fish and wildlife enhancement. Consequently, there is no equitable basis for assessing federal costs of operation and maintenance against commercial navigation. These activities are a distinctly federal governmental function and should be excluded from federal reimbursement policy.

9. Excessive Allocation of Costs to Navigation. The formula in Section 4 of H.R. 4846 for allocation of costs to commercial waterway transportation is likewise unjustly prejudicial to commercial carriers. The assignments of costs are arbitrary and capricious on their face. Any rational assignment of costs for purposes of cost-recovery user charges on navigation must relate to benefits conferred by the project.

It was to prevent arbitrary allocation of costs for purposes of assessing waterway user charges that Congress in the Section 205 study (Inland Waterways Revenue Act of 1978) prescribed a study of the comparative levels of benefits received from:

"(A) commercial uses and

"(B) other uses, including (but not limited to) recreation, reclamation, water supply, low-flow augmentation, fish and wildlife enhancement, hydroelectric power, flood control and irrigation uses."

The requirement of Section 205 that the study focus on comparative benefits in the user charge context evidences Congressional intent that costs for purposes of user charge determination should be allocated on the basis of benefit distribution. On such a basis, it is clear that distribution by arbitrary percentages or in line with cost assignments for authorization cannot be justified. Typically, assignments of costs have been weighted against navigation because it has been a non-reimbursable function, thus improving net benefit estimates for reimbursable functions such as hydropower and water supply. Nor can allocation of 90 percent of project costs to navigation as to projects authorized for navigation alone be justified.

By way of illustration, the values of bank stabilization authorized for navigation on the Missouri which accrue to soil conservation clearly exceed 10 per cent on any fair basis of allocation. Likewise, the water supply values accruing to communities and industry from navigable pools on the Ohio, the Illinois, the Upper Mississippi, and many other rivers obviously carry a value much higher than 10 percent, when alternative costs this function are considered. Values to industry, not only for water supply as such, but for cooling purposes, must also be considered. Since recreational boating benefits materially from navigation improvements, an appropriate share of costs should be allocated to such beneficiaries. If, as required by section 205, comparative benefits are determined, a basis may be provided for appropriate cost allocation to commercial waterway transportation. Failing that, Congress should mandate such a determination by competent federal officials.

C. The Constitutional Issue

1. Decision of Social and Economic Issues in the Absence of Congressional Standards. The proposed legislation would

impose no duty upon the Secretary to consider impacts of proposed user charges upon private industry, job opportunities, state and local tax resources, community welfare and other interests; nor does it specify standards for evaluating or mitigating such impacts. He is directed only to prescribe user fees which "shall be adequate to recover 100 per centum" of specified federal expenditures, less anticipated waterway fuel tax collections.

In prescribing such fees he may elect to consider factors in addition to those enumerated in Section 2(b), all of which are relevant only to achievement of fuel cost recovery, except for the factor of "congestion at various points" which is relevant only to the design of mechanisms to eliminate congestion by reduction in traffic demand.

Such other factors would be those which he "finds reasonable and equitable." If, contrary to the dominant purpose of this legislation to recover full federal waterway costs, the Secretary should find it reasonable and equitable to modify user fees to mitigate social and economic impacts, he would assume what is clearly legislative responsibility for weighing the values of full federal cost recovery against the social and economic damage certain to result from so radical a change in national policy. The Constitution does not tolerate such an assumption of uninstructed legislative power. See Industrial Union Department, AFL-CIO v. American Petroleum Institute, 100 S.W. 2844 (1980). If Congress intends that social and economic impacts are to be considered, evaluated and mitigated, clear guidelines must be provided for executive action. See Yakus v. U.S. 321 U.S. 414 (1944).

2. Executive Branch Control of Authorization and Funding. The proposed legislation would assign to the Secretary of the Army the authority to determine and to alter at will from time to time the structure and form of the proposed user fees and their geographical allotment as between respective waterway projects, segments, and systems, subject only to consultation with the Secretary of Transportation. This authority, in combination with the existing function of the Department of the Army with respect to project evaluation, would constitute an almost total surrender by the Congress of the implements of decision and policy. Proposals before the Congress as to new project authorization and funding would be virtually pre-decided by the Secretary of the Army.

The Secretary could alter the findings of waterway project evaluation almost at will. To favor or disfavor a particular project, the Secretary could alter the project-specific user fees by spreading these fees more widely or less widely over portions of a waterway or by extending or reducing the delimitation of the applicable segment or multiple-waterway system.

Indeed, the vice of excessive delegation is compounded in the proposed legislation by the grant to the Secretary of unrestricted choice as to the "mechanisms" for user charge imposition. Impacts of user charges would differ widely depending on the mechanism or combination of mechanisms that may be employed. Thus mechanisms designed to curtail use of selected waterways would exercise a depressive effect on the incomes of water-dependent agriculture and industrial communities.

Charges in the form of direct costs such as lockage fees or ton-mile charges would, of course, affect traffic flows quite differently from license fees which may depend on cargo capacity regardless of volume of transportation. Such differences in impact would materially alter competitive relationships and determine the economic future of agricultural producing areas and of manufacturing complexes.

These factors within executive control would, of course, decisively affect waterway project evaluation and decisions as to authorization and funding.

The abdication of decision-making capability by the Congress would apply not only to proposed new construction projects. It would apply as fully to the question of continued maintenance of existing waterway segments. Navigation works and channels on existing segments require rehabilitation from time to time. By adjusting the associated incidence of cost-recovery user fees, and thereby the ostensible feasibility of rehabilitation, the Secretary of the Army could present the Congress with proposals at his discretion, either for segment rehabilitation or segment abandonment. In such cases, Congress would be denied any systematic or consistent structure of information as a basis for approval or disapproval. Under the proposed legislation, the latitude of discretion assigned to the Secretary of the Army would reduce the role of Congress in water resource development involving navigation to that of a rubber stamp. Thus Congress would have surrendered authority in an area where such decisions are of a distinctly legislative character. See Oklahoma v. Atkinson, 313 U.S. 508, at 527: "It is for Congress alone to decide whether a particular project, by itself or as a part of a more comprehensive scheme, will have such beneficial effect on the arteries of interstate commerce as to warrant it. That determination is legislative in character."

3. Tax Uniformity. The Constitution provides that "all duties, imports and excises shall be uniform throughout the United States" (Article I, Section 8, Clause One.) For purposes of this memorandum it suffices to state that the central thrust of the tax uniformity clause is to assure that taxes within its coverage -- "duties, imports, and excises" -- apply uniformly in the geographical sense throughout the United States.

Thus the Supreme Court has consistently construed the uniformity clause to mean that: "Whenever a subject is taxed anywhere, the same must be taxed everywhere throughout the

United States at the same rate." Knowlton v. Moore, 178 U.S. 4 (1900).

Again in Brashaber v. Union Pacific Ry. Co., 240 U.S. 21-25 (1916) the Supreme Court said:

"The uniformity of taxation throughout the United States enjoined by Article I, Section 8, is geographic, not intrinsic."

So also in Florida v. Mellon, 273 U.S. 12 (1927) the Court stated that:

"All that the Constitution requires is that the law be uniform in the sense that, by its provisions, the rule of liability shall be alike in all parts of the United States."

It is clear that the fuel tax imposed by the Inland Waterways Revenue Act, as it would be amended by H.R. 4846, is an excise tax within the meaning of Article I, Section 8. See Bromley v. McCaughn, 280 U.S. 124, 136 (1929).

The question here is whether the tax on vessel fuel provides a rule of liability which is alike in all parts of the United States as applied to the same subject matter.

In this connection, H.R. 4846 attempts to define the subject matter of the fuel tax as "any liquid sold -- for use as a fuel in -- (a) vessel in commercial waterway transportation."

The definition of commercial waterway transportation incorporates use of the vessel on the "inland waterway system", which is also a defined term, the meaning of which given in section 206 of the Inland Waterways Revenue Act as amended by section 7 of the proposed legislation, to include certain described waterways and waterway systems.

It seems clear that the geographical coverage of the tax is not a legitimate element of the definition of its subject matter. To say that the subject matter of the tax is liquid fuel used in shallow draft vessels on the designated waterway segments is to beg the question of geographical uniformity and, by a piece of sophistic legerdemain, to erase the tax uniformity clause from the Constitution. By way of analogy, surely no one would contend that the subject matter of a tax on highway fuel limited to vehicle traffic on highways of West Virginia and other selected states but not on the highways of New York and California is the fuel used on the taxed highways.

The subject matter of the tax, therefore, is any liquid fuel sold for use in a vessel of 12 feet or less draft (IRC Sec. 4042(e)(1)) and not designed primarily for use on the high seas, with the other exceptions set forth in Section 4042(c) of the Internal Revenue Code.

As the proceedings of the Constitutional Convention of 1787 make plain, the concern of the delegates for commercial equality within the nation gave rise to both the tax uniformity clause and the ports preference clause (Article I, Section 9, Clause 6), discussed below. Proposals for their adoption were initially offered as substantially simultaneous motions. This concern related equally to the possibility of Congressional favoritism for the ports of particular states as well as to the prospect of discriminatory state taxes or regulations of commerce. The express words of the tax uniformity clause and its purpose, as evidenced by its history, permit no geographical exemptions from a federal duty, impost or excise.

The remaining question in reference to the Uniformity Clause involves the user fees which would be authorized by the proposed legislation. If these fees are properly defined as excise taxes then they must meet the uniformity requirement of the Constitution.

Although this legislation does not use the term "tax" as applied to charges for use of covered waterways under Sections 2(d) and (e), it is well-settled that the name given to a levy by a legislative body is not controlling[2/]. Moreover, the Supreme Court has defined the term "tax" as "an enforced contribution to provide for the support of government."[3/]

Tolls upon the persons or property making use of the works of public improvement owned and controlled by the state, are a species of tax even though the State may label them as "license fees".[4/] The construction of navigation improvements constitutes, of course, a public purpose.[5/]

2/ City of Philadelphia v. Southern Pa. Tr. Auth., 8 PA Comwlth. 280 (1973).

3/ U.S. v. Miss. Tax Comm., 421 U.S. 599, 606 (1975).

4/ Airport Authority v. Delta Airlines, 405 U.S. 707 (1972).

5/ Cases Collected Annot. 46 ALR 609, 735 (1927).

Since the so-called "user fees" are properly classified as excise taxes and applied only to the fuel sold to shallow-draft vessels for use on the waterways described in Section 206 of the Inland Waterways Revenue Act of 1978, as it would be amended by the proposed legislation, a grave question arises as to whether the constitutional requirement of uniformity would be met.[6]

Pending legislation now under consideration by Congress to provide for user charge impositions upon deep draft harbors and channels specifies limited percentage cost recovery for channel deeping in excess of presently authorized depths and for operation and maintenance to deepened channels, and either specifies no charges for operation and maintenance expenditures for presently authorized depths or a percentage much lower than the percentage for provision of greater depths. It appears that shallow draft transportation would not be covered by such legislation, nor does any pending legislation as to deep draft user charges provide for imposition of a fuel tax in addition to the user charges above mentioned.

6/ The described waterways exclude (a) all waterways such as Chesapeake Bay and the Delaware River, north of Norfolk, Virginia, (b) the Mississippi below Baton Rouge, Louisiana, (c) the Columbia River below the Bonneville Lock and Dam project, (d) all waterways of California, (e) all waterways of Alaska and Hawaii, (f) all waterways of New York and New England. All tributaries of the Ohio and the Missouri would also be exempt since only the Mississippi and its tributaries above Baton Rouge are covered, not tributaries of tributaries of the Mississippi. This is, presumably, the result of an oversight.

It is evident that the rule of liability for the deep draft harbors and connecting channels would differ materially from that proposed by H.R. 4846 for the designated waterways. Provision in S. 809 and other bills for imposition of user fees on deep draft harbors and channels does not, therefore, affect the conclusion stated above -- that, assuming the "user fees" are properly classified as taxes, H.R. 4846 may be held to violate the constitutional requirement for uniformity of imposts, duties, and excises.

4. Ports Preference Clause. The Constitution (Article I, Section 9, Par. 6) prohibits preferences by any regulation of commerce or revenue of the ports of one state over those of another.

Under H.R. 4846, all ports on waterways or segments not specified for fuel taxes or user charges are exempt.

All deep draft ports on inland waterways are exempt.

All ocean and Gulf Coast ports are exempt.

The same is true of all Great Lakes ports.

No waterways in California, New York, New England, Alaska, or Hawaii are subject to the tax.

Analysis discloses that all ports of the States of West Virginia, Kentucky, Tennessee, Iowa, Missouri, Arkansas, Oklahoma, Kansas and Nebraska are situated within taxed waterways.

All ports of California, New York, Delaware, New Jersey, Maryland, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, and Michigan are exempt.

Some ports of Pennsylvania, Ohio, Indiana, Illinois, Wisconsin, Minnesota, Mississippi, Texas, Louisiana, Oregon, Washington, North Carolina, South Carolina, Alabama, Georgia and Florida are exempt.

The purpose of the Ports Preference Clause is to limit the power of Congress to regulate commerce or revenue, the purpose of such limitation being to assure entire commercial equality within the United States.

The preferences of H.R. 4846 favor certain states with respect to their ports -- those some or all of whose ports are situated on exempt waterways -- with corresponding injury to the states all of whose ports are situated on taxed waterways. These are obviously not incidental advantages and disadvantages; they are inherent in the discriminatory structure of the Act.[7/] Nor is it material that the discrimination against the ports of certain states is effected by statutory definition rather than express identification.[8/]

Detailed analysis discloses that domestic tonnages of waterborne commerce in states all of whose ports would be

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[7/] Phila. & Reading R. Co. v. Pennsylvania, 82 U.S. (15 Wall.) 232, 280 (1873).

[8/] See e.g. TVA v. United States, 96 F. Supp. 409 (N.D., Ala. 1951).

exempt from the fees and fuel taxes which would be provided by the proposed legislation totalled approximately 215 million tons in 1977. Exempt domestic tonnage in states some of whose ports would be exempt totalled 273,795,115, while in these states port tonnage subject to the user fee-fuel tax imposition, such tonnage totalled 75,246,000.

Even with the imposition of fees for operation, maintenance and new construction on the deep draft harbors and connecting channels the burdens imposed on the shallow draft harbors by H.R. 4846 would be much more severe. Exemption of shallow draft tonnage in the states served by the deep draft waterways would, of course, result in a still further prejudice to the states served only by shallow draft waterways.

The interstate discrimination represented in the above figures is particularly flagrant when applied to shallow-draft domestic commerce. Under the proposed legislation, all shallow-draft domestic commerce in the State of New York is exempt from the fuel tax. But all shallow-draft domestic commerce serving the States of Arkansas and Oklahoma is subject to the fee-tax combination.

In 1977, shallow-draft domestic commerce on the Hudson River alone amounted to 17.1 million tons. All this is exempt from the fees and taxes. On the Arkansas River, serving the States of Arkansas and Oklahoma, the 1977 shallow-draft domestic commerce amounted to 9.1 million tons. Although smaller than the Hudson, all this is to be subjected to the fee-tax proposal.

Furthermore, the commodity composition of the traffic on the two rivers bears notable similarities. In 1977, the Hudson and the Arkansas each carried just over 2.7 million tons of sand, gravel, and crushed rock, principally for local highway, airport, and building construction and maintenance. In Arkansas and Oklahoma, this carriage would be taxed. In New York, it would not. Both the Hudson and the Arkansas carried large tonnages of fuel oil and chemicals. In New York, these have the privilege of tax exemption -- for no discernable reason other than that they are in New York.

These comparisons between the Hudson and the Arkansas display similarities of shallow-draft domestic commerce as between the two. The two rivers are further comparable in the dimensions and configuration of the vessel units carrying this traffic.

The internal shallow-draft domestic commerce on the Hudson is thus of the same character in all significant respects as that on the Arkansas. The principal salient difference is that the Hudson is in the State of New York, whereas the Arkansas lies in the States of Arkansas and Oklahoma and is therefore to be taxed. Similar comparisons could be drawn between the exempt shallow-draft domestic commerce in other states, such as California and Alaska, all 100% exempt from the tax, and in such States as West Virginia, Kentucky, and Tennessee, the latter all 100% subject to the tax.

The clearly predictable consequences of these preferences involve:

(a) significant impairment of existing capital investments in the taxed port areas;

(b) an influence tending to induce a transfer of capital from taxed to exempt port areas; and

(c) hardship resulting from impaired employment and a reduced tax base in the taxed port areas.

In general terms, the net effect will be a significantly depressing influence upon the economy of states, all in the interior of the nation, whose principal ports are affected by the waterways user fee and fuel tax and a corresponding stimulus to the economy of those states in the zones all or some of whose ports are exempt from the tax.

Similarly, on a net basis, those states all of whose ports are exempt will enjoy a substantial advantage over states some of whose ports are taxed.

Surely this is the type of commercial discrimination which the ports preference clause was designed to prohibit.

5. Due Process. Exemptions from the fee-tax provisions of H.R. 4846 also raise substantial questions under the Due Process Clause of the Fifth Amendment. The waterways subject to H.R. 4846 are specified sheltered inland and intracoastal

waterways, exclusive of some or all of their deep draft portions, if any. The Mississippi, for example, would be subjected to the fee-tax provisions from Baton Rouge, Louisiana, to its source, but the reach from Baton Rouge to the Gulf is exempt. So also the Columbia would subject to fees and taxes of H.R. 4346 from a point below the Bonneville Dam project, but from that point to the mouth no tax or fee would be imposed.

No rational basis appears for the distribution of the fees and tax as among the various waterways of the nation, particularly in light of the revenue raising purpose of the Bill. The arbitrary and capricious incidence of the fees and tax is graphically shown by the fact that total federal waterway expenditures for three recent fiscal years totalled $2.4 billion, of which $1.4 billion were expended on the exempt waterways and segments and $1.0 billion on those subject to the tax.

The consequences of this fee-tax structure devoid of rational foundation are significantly adverse to communities and industries which will suffer from its discriminations.

Consider, for example, the effects of this imposition upon the steel industry of the upper Ohio Valley in the Corps of Enegineers Pittsburgh District. Huge volumes of the essential fuels and materials for the Pittsburgh District furnaces reach them from Kentucky, West Virginia and Pennsylvania mines via waterways subject to the fee-tax proposal. The steel industry on the Chesapeake Bay and the Delaware River, by contrast, receives much of its materials by totally exempt waterways. This situation is substantially duplicated by the advantages generated for the steel industry in the Chicago District by the exemption of the Great Lakes vis-a-vis the taxation of the Ohio and Monongahela River traffic.

Even more serious for the Upper Ohio Valley steel mills is the discrimination in favor of the Mississippi below Baton Rouge, the Gulf Coast harbors, and the Houston Ship Channel as contrasted with the Mississippi above Baton Rouge and the Ohio. This differential tax treatment means that the Upper Ohio Valley mills will be subjected to a grave disadvantage in down-river shipment of finished steel in their competitive struggle with Japanese and Common Market steel invading Gulf Coast and lower Mississippi Valley markets via the exempt waterway segments in ever-growing volumes. The exemption of the Mississippi below Baton Rouge and of the Gulf Coast harbors and the Houston Ship Channel, while the Illinois River and the Mississippi above Baton Rouge are taxed, imposes a similarly unfair competitive disadvantage on the Chicago District mills with respect to Gulf Coast markets.

Discriminatory treatment of the waterways has most serious implications also for farmers and farm oriented communities. Waterway movements of grain and soybeans from farm to Gulf

Coast markets via waterway routings have contributed greatly to improvement of farm incomes, benefited also by waterborne movements of fertilizer and tractor fuel. Under the proposed fee-tax, farms and farm oriented communities served by the Upper Mississippi, the Missouri, and the Ohio and its tributaries such as the Cumberland and the Tennessee will be especially victimized while agricultural interests served by the Great Lakes and exempt coastal rivers will enjoy a significant competitive advantage.

In general, productive enterprises dependent on water transportation to be subject to the fuel tax system are intensively competitive with similar enterprises located on or near exempt waterways.

This discrimination will tend to shift the balance of competitive forces to areas with economical access to exempt waterways, impairing capital investment and associated employment by firms served by waterways subject to the fee-tax proposal.

The foregoing discussion deals with the predictable adverse effects of the fee-fuel tax proposal on industry and agriculture dependent upon taxed waterways. Water carrier operations on taxed waterways will also be impaired. Thus, important movements of farm crops from the Midwest to the Gulf Coast for export are likely to shift from the taxed western rivers to the Great Lakes with attendant loss of revenues by river operators to the favored Great Lakes carriers.

Most of the farm crops shipped for export on the Great Lakes from such Ports as Duluth-Superior and the ports of Lake Michigan are carried in foreign flag ships. These would be favored by the exemption, at the expense of domestic carriers on the Mississippi River and its tributaries. Over two-thirds of the tolls paid for transiting the St. Lawrence Seaway are received by the government of Canada. The shift of grain cargo from the Mississippi River to lake carriage would thus not only impair the position of the domestic waterway carriers. In addition, the user fees on that portion diverted to the Seaway would provide revenue, not for the United States, but principally for the government of Canada.

So also, water carriers of liquids on the subject waterways will suffer as these movements are shifted to pipeline.

Indeed, to the extent that industry shifts its new investments in steel, electric power, chemicals, and other manufacturing enterprises to the exempt waterways, water carriers on the subject waterways such as the Ohio and Upper Mississippi will sustain a gradual erosion of their business in favor of the carriers on the Great Lakes and other exempt waterways.

This highlights the unfair and arbitrary nature of the exemption of cargo carriers operating on some waterways improved at federal expense while competing carriers on other waterways similarly improved are subject to the tax.

The absence of a rational basis for the highly differential and prejudicial treatment accorded certain waterway movements and certain types of water transportation under this Bill raises a substantial question as to whether its fee and taxing provisions constitute a deprivation of property without due process of law in violation of the Fifth Amendment.

The Bill is a melange of inequity, injustice and irrationality which demands rejection as a deprivation of property, of dubious constitutionality as well as what appears to be an unconstitutional attempt to impose an excise tax on a discriminatory geographical basis and to create unlawful preferences among the States with respect to their ports.

D. Unpredictable Impact of Segment Charges and Other Discretionary Factors

The repeated use of the term waterway "segments" in the draft legislation indicates a preference for segment charges as distinguished from uniform charges throughout closely interrelated portions of the system, such as the Mississippi and its tributaries and the Gulf Intracoastal Waterway, or in the form of a single uniform charge as exemplified by the federal highway use taxes and as required in the case of excise taxes by the Tax Uniformity Clause of the Federal Constitution which provides that indirect taxes shall be uniform throughout the United States.

The bill contains no definition of the word, "segment". Presumably, its operative definition is within the province of the Secretary. This, too, may be held to be an instance of excessive delegation of authority. The definition will inevitably exert differential regional economic and social impacts. If the definition relates to single rivers, or portions of rivers, serious disruptions may occur within a regional economy. High charges on a short segment vital to an important economic complex such as the Pittsburgh steel district, could have seriously injurious consequences. If the segment charge is extensive enough to encompass an entire major river system and thus to mitigate interregional dislocation, then whatever value user charges may have for efficient allocation of transportation resources will be dissipated. As stated by Richard Musgrove, Professor of Economics, University of Michigan:

> Taxation of highway users in one region to pay for highway facilities in another may be further removed from benefit taxation than finance by general revenue.*

In addition to these powers, the legislation would confer upon the Secretary of the Army power to fix charges for particular river basins, waterways, segments, lock-and-dam improvements, or for particular channel dredging or widening projects at levels substantially below or above applicable costs, provided only that aggregate revenues be adequate to recover 100 percent of anticipated operation and maintenance expenditures assigned to commercial waterway transportation, plus amounts necessary to recover capital expenditures referred to in paragraphs (d) and (e) of section 2.

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* Richard Musgrove, The Theory of Public Finance, McGraw-Hill, New York, 1959.

Still another factor of uncertainty is implicit in the provision of section 2(d) for crediting against user charges, collections from the waterways fuel tax since fuel tax collections will vary substantially with changes in traffic volume.

The opportunities for differential charges are legion under the blanket authority of the Secretary to establish fees on the basis of any factors he find "reasonable and equitable". Such differentials, however rationalized under the broad discretionary authority of the Secretary, can severely prejudice regional economic conditions and distort competitive relationships among producing centers.

The unrestrained discretion bestowed upon the executive branch would place the affected waterway transportation and regional interests in an intolerable position. The executive branch would possess wide discretion in the determination and alteration of project-specific and segment-specific user charge levels, either concentrating or extending at will the geographical entity the costs of which were to be recovered.

Under these circumstances, the Congress, in authorizing and funding waterway projects, would be imposing costs upon particular industries and regions of unpredictable variation and magnitude. Any established administrative policy would be of limited value, possessing validity only for the duration of the incumbent administration. Thus, waterway users would be victimized by forces entirely beyond control or predictability, with only such relief as might be available through appeal to the courts on constitutional grounds.

Under such a regime, it is difficult to imagine that water carriers would be inclined to invest in power units, barges, terminals and related properties or that shippers and receivers of waterborne freight would be interested in establishing or expanding plants and other facilities dependent upon water transportation at predictable cost. The economic geography of the nation could be injuriously altered by the unrestrained misconceptions of a single administrative official.

E. The Interest Rate Criterion and Inter-Project Discrimination

Under section 8, the interest rate for purposes of determination of user charges, including recovery of interest during construction is to be established by the Secretary of the Treasury, "taking into consideration average market yields on outstanding marketable obligations of the United States during the period expenditures are made." (sic) This provision would generate a capricious and substantial discrimination between projects and river segments and, consequently, between respective farming and industrial areas of the country.

F. Year-to-Year Variations in User Charge Rates

The necessary consequence of the provisions of H.R. 4846 for recovery of 100 percent of federal outlays for shallow-draft operation and maintenance, plus 100 percent of rehabilitation and replacement, less fuel tax collections, is a highly variable rate level, with severely adverse effects on waterway transportation and shipping activities.

On the Ohio River, for example, operation and maintenance costs in fiscal 1971 were $12.1 million; in fiscal 1973, $14.3 million; in fiscal 1975, $15.2 million; in fiscal 1978, $23.4 million; and in fiscal 1980, $28.7 million. On the Mississippi River between the mouth of the Missouri and the mouth of the Ohio, operation and maintenance costs in 1975 were $5.2 million; in 1977 they had more than doubled to $12.9 million; in 1979 they were down to $5.4 million; in 1980 they had jumped to $9.7 million.

Such large, short-term fluctuations are a permanent feature of the costs of waterway operation and maintenance. Experience on other waterways is closely similar, with large variations from year to year attributable not to variations in use by water carriers, but to weather conditions, rapidity of runoff, sedimentation, and other factors.

Effects of capital cost recovery would, of course, depend on the frequency with which rehabilitation and replacement projects are instituted, but would not significantly mitigate the adverse effects of the variations in the operation and maintenance costs.

This built-in short-term variability and unpredictability of charges under the shallow-draft bill means that no rational forward planning would be possible as to investment in vessels, terminals, and access facilities, nor in intermediate or long-term contracts, shipping arrangements, or location of waterside plant sites. Economic development in the Ohio River Basin and in valleys of other navigable rivers would be severely curtailed. The injury to the Ohio River Basin would be worsened by the fact that the portion of the region most drastically affected lies within Appalachia where economic growth based upon river transportation is a primary means for the emerging relief of substandard economic conditions in this area.

G. Amendment to the Inland Waterways Trust Fund.

1. Inequities in Trust Fund Application. User fees prescribed by H.R. 4846 would be credited to the Inland Waterways Trust Fund. The Trust Fund provisions of the Inland Waterways Revenue Act of 1978 would be amended to provide that amounts in the Fund may be appropriated without specific

project authorization "for making capital improvement and operation and maintenance expenditures on the inland and intracoastal waterways of the United States."

The term "inland and intracoastal waterways of the United States" is defined in section 206 of the Inland Waterways Revenue Act of 1978 "as amended by section 106 (sic)[9] of this Act," and term "inland waterway system" as used in the proposed legislation is defined as all inland and intracoastal waterways described in section 206 of the Inland Waterways Revenue Act of 1978 as amended.

In consequence of these amendments, fuel tax revenues collected from the original twenty-six waterways could be appropriated for operation and maintenance and capital improvements on the waterways included in section 206 as amended, some of which were not among the original twenty-six.

Similarly, waterways or portions thereof included in the original twenty-six but not in the amended version of Section 206 would be deprived of Trust Fund moneys which had been derived from fuel use on them.

A detailed analysis of the waterways added to or subtracted from the original twenty-six is required. It should be noted, however, that (a) several waterways designated in the original twenty-six, such as the Cumberland, the Green and Barren, the

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9/ This is an error: Section 7 of the proposed legislation would amends § 206.

Kentucky, the Kanawha, the Monongahela and the Tennessee, are not tributaries of the Mississippi and are not designated in the amended version of section 206 of the Inland Waterways Revenue Act; (b) the Tennessee-Tombigbee waterway is designated in the amended version though omitted from the original; and (c) the exclusions in H.R. 4846 from definition of the inland waterway system involve discriminations of substantially the same magnitude as those described in the existing Inland Waterways Revenue Act; such discriminations raise the constitutional questions under the Tax Uniformity, Ports Preference and Due Process Clauses discussed above.

H. Effect of Elimination of Requirement for Authorization of Trust Fund Expenditures.

Section 204 of the Inland Waterways Revenue Act provides that no amount may be appropriated out of the Trust Fund unless the law authorizing the expenditure specifically provides for such appropriation. The purpose of this, as shown by the legislative history, was both to limit use of the Fund to projects for which such use was specifically authorized and to provide assurance that the Trust Fund was not intended to limit the authority of Congress to finance navigation projects from general revenues. Deletion of that provision by the proposed legislation, therefore, raises a question as to whether it is intended to limit appropriations for operation, maintenance and capital expenditures to amounts available from the Fund.

I. Inconsistencies Between Fee-Tax Levies and Trust Fund Applications.

As noted previously, H.R. 4846, Section 6, would make Trust Fund amounts available as provided in Appropriations Acts for capital improvements, operation and maintenance on the waterways described in Section 206 of the Inland Waterways Revenue Act as it would be amended by the proposed legislation. Collections from the increased waterways fuel tax would be derived from sales of fuel for use in vessels in commercial waterway transportation wherever on the defined system the use might occur.

This combination of a system-wide tax and system-wide application of the funds so derived is fully consistent with concept of an integrated system to be created as an economic unit both as a source of funds and for their application to the needs of the system.

In the case of user fees, as distinguished from fuel taxes, however, the proposed legislation would treat each waterway segment, as defined by the Secretary of the Army (without Congressional guidance) as a separate unit so as to demonstrate its individual cost-effectiveness and to avoid "cross-subsidization." Yet the proceeds of the "user fees" from the various segments would be lumped into the Trust Fund and applied to capital improvements, operation and maintenance of the inland waterways system, thus treating the system as an integrated unit. Such application of the Trust Fund would, of course, frustrate the objective of the segment charge policy and defeat its implementation.

Consistency with that policy would require creation of a separate Trust Fund for the fees accruing from each waterway segment and application of each fund exclusively to the improvement, operation and maintenance of the corresponding segment. This policy consistenly applied would refuse federal assistance in any form to segments unable to produce funds through fee collections adequate for necessary improvements, operation or maintenance.

If, for example, the antequated and inadequate locks on the Monongahela or the Upper Ohio were to breakdown, theoretical purity of the "market test" philosophy would require that no remedial action be taken, notwithstanding resulting economic disaster, until and unless the trust fund for the affected segment were built up to necessary levels, a result never to be achieved under such a policy. Realism, on the contrary, would counsel adoption of a policy treating the waterway system as a national asset to be improved, operated and maintained in the national interest. Thus fiscal prudence would specify a reasonable private sector contribution through taxes uniform throughout the national waterway system to supplement federal provision from general revenues of sufficient funds to build, operate, and maintain a national waterway system adequate for reasonably foreseeable national needs.

J. Severity and Ambiguity of Penalties.

The penalties for non-payment of user fees are especially severe. Simple non-payment on the due date (1) carries a fine of up to $10,000 for each day of violation, however innocent, and (2) constitutes grounds for a prohibition against operation on any portion of the inland waterway system or the use of any lock on the system. This provision makes no distinction between a willful and knowing refusal to pay and a failure through mistake or other innocent cause. Moreover, the penalties are obviously excessive and raise constitutional questions under the Due Process Clause of the Fifth Amendment. It is hardly conceivable that modern constitutional jurisprudence would condone depriving a person of his livelihood for an unintentional failure to pay taxes on the cxact due date, and treating each day's tardiness as a separate offense. This vindictive quality of this provision corroborates the contention that this bill is characterized by extreme anti-waterways bias.

K. The User Charge Impact Study.

This legislation calling for immediate imposition of full-cost recovery user charges without regard to the conclusions reached in the impact study required by Section 205 of the Inland Waterways Revenue Act of 1978, would frustrate the obvious intent of Congress that no substantive change be made in the 1978 fuel tax provisions and no additional waterway charges or taxes be authorized prior to submission of the Section 205 study to Congress and consideration by Congress of the study report.

The considerations of concern with regard to risks to the economy involved in the shift from the historic toll-free waterways policy to a user charge regime, which prompted Congress to enact the study requirement, remain fully operative. Indeed, they are underscored by the extreme lengths to which the proposed legislation would go. It involves an immediate imposition of 100 percent cost-recovery charges and, by adopting the cost-recovery principle, threatens the continued operation of all but the lowest-cost waterways. Imposition of such charges to recover federal costs which do not vary substantially with use, necessitates ever-increasing unit rates of charges to achieve prescribed fixed cost recovery levels as traffic declines under pressure of the charges. A vicious spiral would be set in motion resulting in progressive closing of all but the lowest-cost waterways. Thus, the need for the study and in-depth consideration by Congress of its findings is more pressing than ever berfore if Congress is to avoid a leap into the dark fraught with serious consequences to extensive sectors of the nation.

Regrettably, preliminary drafts of the study contain estimates of traffic diversion resulting from full cost recovery user charges which appear to have failed to take into account the inherent tendency of percentage cost recovery charges to generate progressive traffic declines as charge rates rise to recover against declining traffic volumes percentages of costs which do not vary significantly with use. While these damaging consequences can be expected under percentage cost recovery charges, whether uniform or segmentized, segment charges would facilitate attempts by competing modes to capture waterway traffic as described above and thus accelerate the process of waterway traffic decline.

If, for example, the user charge rate on the Missouri River were six mills per ton mile under a segment approach, the river traffic would be an easier target than if the Missouri traffic were taxed at (for example) two mills per ton mile under a uniform national or Mississippi System rate.

L. Recovery of Sunk Costs.

The proposed legislation would provide for recovery of capital expenditures with interest for rehabilitation or replacement of structures completed after October 1, 1981, even though under construction before that date. (Section 2(d)) This would mean that all the costs of such improvements must be recovered although authorized under standards no longer applied and for which funds had been spent or irretrievably committed long before the effective date of the proposed legislation.

The Tennessee-Tombigbee, for example, was authorized in 1946 and is reported to be about 75 percent completed.

The imposition of cost-recovery charges on projects already authorized and partially funded in the past, and in the total absence of any prospect for such charges, would be a wanton violation of the "market test" would have been applied as a basis for such authorization and funding. Furthermore, such projects normally incorporate elements dedicated to non-commercial public interest objectives of the character dismissed as irrelevant or non-existent in the user charge cost-recovery philosophy, including, for example, the national defense, depressed area rehabilitation, and public health and safety. The cost of these project features, conceived as of benefit to the nation as a whole, would thus be thrown exclusively upon the direct users of the navigation works.

In the case of "new or modified waterways" the burden of past or sunk costs could be even more severe. Thus the modernization of the Ohio River was commenced in 1954 with initiation of construction of the Greenup, Kentucky, and New Cumberland, West Virginia, projects. Fourteen of the structures included in the program have been placed in operating condition, but five remain to be started. Assuming that the Ohio would be treated as a "modified waterway completed for through traffic after October 1, 1981," then under section 2(e) full costs of operation and maintenance and construction costs of the Corps with interest from the initiation of the program in 1954 would be subject to recovery beginning with the date of initial movement of through traffic, presumably about the year 2000 when, for example, the first ton of steel products from Pittsburgh transits new Locks and Dam 53 near the mouth of the river. The amount accumulated for operation and maintenance, construction, and interest over about forty-six years, which is to be recovered, is mind-boggling and its chilling effects on new investment would be felt through the Ohio River Basin many years in advance of completion and the beginning of reimbursement, however gentle the "phasing."

M. Change in Incidence of Fuel Tax.

Under existing law, the tax applies to fuel used in a vessel in commercial waterway transportation and the tax is measured by the quantity of fuel used in transportation on the specified waterways. Thus, the owner, operator, or lessee of the vessel is responsible for keeping necessary records, making required reports, and paying the prescribed taxes.

Section 5 of the proposed legislation would shift incidence from consumption to sale. But the tax would be imposed on the "sale" "for use as a fuel in such vessel in commercial waterway transportation." Under the definitions, this means fuel used in a vessel operating on any of the waterways described in section 206 of the Inland Waterways as amended by H.R. 4846. Thus, the seller of the fuel would be responsible for determining fuel use on the designated waterways -- and, indeed, would be required to base the tax collected at the time of sale on an estimate of such use, presumably furnished by the buyer, with subsequent adjustments for changes in routes and fuel use.

This system would, of course, become difficult and costly to administer and burdensome on both seller and buyer of the fuel.

CONCLUSION

Any user charges or use taxes on the nation's inland and intracoastal waterways established to recover to the Government some specified percentage of Federal outlays would be unique to this mode of inland transportation and thus prejudicial and discriminatory in principle. But, the bill proposed by the Assistant Secretary of the Army (H.R. 4846) stands alone in the intensity of its anti-waterway bias.

By specifying the recovery of 100 percent of Federal outlays, the bill would totally dismiss the critical public values and public interest objectives inherent transportation development, values and objectives conceded, however inadquately, by other cost-recovery proposals and fully recognized in Federal unreimbursed funding of competitive overland modes of transportation. The proposed startling immediacy of imposition would exert a sudden and shocking impact on waterway carriage, on water-based shipping and receiving industries, and on the employment and incomes of extensive regions of the country whose livelihood depends on these industries.

The vulnerability of waterway carriage to competitive below-cost railroad rates would be exacerbated by the bill's emphasis on charges differentiated by waterway segments. The proposed percentages of cost allocation to other water resource functions associated with navigation are transparently inadequate and arbitrary, as is the proposed imposition of uniquely high rates of interest distinctively on the nagivation function.

The bias of the bill's provisions is flagrantly displayed on the one hand by the arbitrary and unrealistic limitations it would place on projected service life of waterway projects, a provision which would generate impositions well in excess of 100 percent of Federal costs, and, on the other, by the extreme severity of penalties applicable to ambiguous or unintended and innocent violations. Among the various proposals which have been advanced for imposition of discriminatory cost-recovery user charges on the U.S. inland waterways, the bill proposed by the Assistant Secretary of the Army stands alone for grossness and severity of its anti-waterway bias.

The bill wantonly invades principles which are fundamental to constitutionality. It would delegate to the Executive Branch authorities which are essentially legislative in character; it would evade the principle of tax uniformity throughout the United States; it would short-circuit the ports preference clause; and it would appropriate private property values without due process of law. The anti-waterway bias of its provisions are matched only by its disregard for constitutional principle.

WARRIOR-TOMBIGBEE DEVELOPMENT ASSOCIATION

CHAIRMAN
Sheldon L. Morgan
Senior Vice President
The Merchants National Bank
Mobile, Alabama

VICE-CHAIRMAN
TIM PARKER, JR.
Executive Vice President
Parker Towing Co.
Tuscaloosa, Alabama

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Offa S. Nichols, Jr.
Col. USAF (Ret.)
Birmingham, Alabama

SECRETARY-TREASURER
William A. Powell, Jr.
President
First National Bank
Birmingham, Alabama

Before The

Senate Environment and Public Works

Subcommittee on Water Resources

"Inland Waterway Development and the Effect of User Fees"

Hearing Chaired by Senator James Abdnor

in Mobile, Alabama, March 5, 1982

Statement

of

Offa S. Nichols, Jr.

President

March 5, 1982

STATEMENT for
United States Senate
Environment and Public
Works Subcommittee on Water
Resources, Mobile, Alabama
March 5, 1982

My name is Offa S. Nichols, Jr. I am President of Warrior-Tombigbee Development Association. The membership of the Association consists of a cross-section of agricultural, commercial and industrial activities in the region comprising the Warrior-Tombigbee basin in Alabama. It was formed in 1952 to bring about the re-development of the Warrior-Tombigbee Waterway System, consisting at that time of fifteen locks and dams. Construction of that system (originally 17 locks and dams) began in the late 1870's and culminated with the seventeenth lock and dam in 1915. The navigation system provided by these locks and dams gradually was permitted to fall into disrepair as a result of insufficient funds for maintenance and repair. By the middle of 1950, the annual tonnage on the system had levelled off to about 2.5 million tons per year due to the limited capacity of the obsolete locks.

Warrior-Tombigbee Development Association's objectives since its formation have been not only the replacement of the outmoded locks and dams and improvements in the Mobile Bay area, but also the appropriation of sufficient operational and maintenance funds to maintain the facilities in first-class condition. Congress generally has appropriated the necessary funds to make this possible. As a consequence, there are now only six locks to traverse the 400-plus miles from the head of navigation to the Port of Mobile, one of the nation's vital harbors. During the studies which resulted in this re-development, it was estimated that by 1980, the waterway would carry some 8 to 9 million tons. Records reflect these levels were reached about 1966, and that over 18 million tons moved in 1980--a seven (7) fold increase over the beginning point in 1950, and a doubling of what had been expected from the improvements. Continued strong growth is reflected by preliminary 1981 figures, in spite of the coal strike of over three months, and a subsequent thirty one day complete closure of the Waterway for major maintenance on three locks. It appears that essentially the same tonnage moved in 1981 as in 1980, in spite of the effective loss of about four months during 1981.

While in past years the waterway has operated in a generally efficient and reliable manner, we have now encountered a new set of circumstances. These new circumstances reflect not only the impressive growth up to now, but even more the immediate and increasing impact of the world-wide energy and food picture. Some estimates indicate that 10% of our nation's coal reserves are located in the Warrior Basin. Farmers from twenty-one (21) Alabama and Mississippi counties ship their grain to Mobile for export via the waterway. We have a number of large and experienced mining operations in the area, as well as others capable of substantial growth. The development of these coal reserves, the skills and experience of our people, and the growing world-wide demand have created new demands on the waterway. Several thousand farmers are dependent on the Waterway for efficient transportation of their products. In Alabama, as in the nation, the largest cash crop is soy beans. Even today, without user charges, foreign markets are backing off from our farm products because of costs.

I wish to emphasize that there are many other important commodities moving on the Warrior-Tombigbee Waterway, as well as large amounts of coal and farm products. Various ores, crude and fuel oils, steel products, chemicals, aggregates and wood products comprise the other major elements.

These ever increasing demands require that the Warrior-Tombigbee operate at peak efficiency on a full time basis. Our operational efficiency is exacerbated by a serious bottleneck caused by the one remaining sub-standard lock--William Bacon Oliver on the Warrior River. This pre-World Warr II lock is smaller that the other five, all of which are the new modern, standard size of 110 x 600 feet. This necessitates the tows being broken apart, and utilizing double lockages to get through. It would seem to be truly penny-wise and pound-foolish to perpetuate and even further magnify this inefficiency. The current Operations and Maintenace budget and the various user charge proposals will do exactly that---lower the efficiency, and perhaps become the beginning of an increasingly serious vicious circle for the future.

(Testimony is continued on the following sheet)

I appreciate the opportunity to comment on the user charge issue, and I will do so as one who has a view gained from association with a broad cross section of business and industrial interests, and not based on only the views of those who are direct users by being either shippers or carriers. The Warrior-Tombigbee Development Association does have a number of shippers and carriers among its membership--but we have as many or more members who do not make direct use of the waterway, nor is their primary business necessarily with those who do. I say this not to dis-associate myself from the views of the shippers and carriers, but to emphasize the breadth of interests in this important issue in the area served by the Warrior-Tombigbee Waterway.

Nobody knows yet what the impacts will be. The proposals for implementation keep changing; and the Section 205 study mandated several years ago so far appears to be seriously inadequate. It appears to me that the main difference in our position today versus a year ago is that we have new and greater pressures for user charges, but no better answers to the questions that were raised them.

The United States must pursue far-sighted national policies which are conducive to the continued vitality of the American waterways as an integral part of the national freight transportation system. A modern and well-maintained navigation system--unimpeded by channel obstructions, bottleneck locks, and other navigation hindrances--is vital to the Nation's farm and industrial economies, to world trade and the U.S. balance of payments, and to America's energy independence.

The realization of the U.S. goals of revitalizing the economy, enhancing productivity, and increasing national output cannot be achieved unless the outputs of American industry and agriculture can reach and expand their markets, both at home and abroad, in competition with foreign products. This requires the modernization of U.S. coastal ports and the maintenance of a commercially viable system of inland waterway transportation. It also means the availability of efficient rail and highway transportation systems to provide reliable, cost-competitive freight transportation.

Historically, the Federal government has provided the in-channel navigation improvements--locks, channel improvements, and maintenance dredging--necessary for a viable system of waterway transportation. But these items alone by no means comprise a complete, functioning waterway. Billions of dollars of state and local tax revenues, and private capital, have been invested in the shoreside facilities which are also needed to make the system functional. These non-Federal contributions have included dredge spoil disposal sites, public wharves, terminals, elevators, cargo handling and storage facilities, rail and highway connections, police and fire protection, water, sewer, and street improvements serving waterway ports and, in some cases, publicly acquired plant sites for waterside industries.

As part of its budget reduction effort, the Administration has proposed legislation that would, in effect, curtail future Federal participation in this joint venture, leaving it to state and local entities--and to private interests--to fully finance future construction of navigation facilities and continued maintenance of existing facilities. While the Army Corps of Engineers would continue to serve as the construction agency, under the Administration's proposals, new navigation consturction costs (plus interest), as well as operation and maintenance (O & M) expenditures, on the shallow-draft waterways would be recovered through "user charges". Coastal harbor improvements, such as deepening projects needed to facilitate expanding U.S. coal exports, would be undertaken only if local governmental entities, such as port authorities, agreed in advance to repay the Federal portion of costs, would could in turn be recouped through port user charges.

It is appropriate, therefore, that the Congress is now examining Federal waterways policy with particular emphasis on navigation cost recovery. This is a very complex issue with far-reaching implications for interior regions, agricultural earnings, industrial stability, and general economic growth. In a real sense, user charges policy also bears directly on vital national objectives like national defense preparedness, regional development, energy conservation, restraint of inflation,and export expansion.

Because user charges are passed on, rather than absorbed, they are not a tax or toll on water carriers. User charges add to the cost of waterway transportation, which is paid by waterway shippers and receivers in the form of higher waterway freight bills. Shippers and receivers in turn add the increased transportation costs to the prices of their products or, in the case of farm crops, deduct it from the prices they pay for grain and soybeans. If user charges on certain waterborne commerce cannot be passed on, that commerce will be forced off the rivers, diverted to other modes, or cease to be competitive if new sources of supply emerge in other regions or in other countries. It is important, therefore, to understand the economic dangers as well as the budgetary advantages of navigation cost recovery.

From my own observations and from discussions with those who use the Warrior-Tombigbee Waterway, I do not believe the basic industries involved will be able to absorb the added costs of user charges. This means that these costs will have to be passed on, or the service terminated or perhaps displaced to higher cost alternate means of transportation. The following are predictable results of this eventuality:

(1) The cost of electric power goes up for both the home and business. Some 80% of the electric power in Alabama, the Southern Electric System, and this whole area is generated from coal, much of which moves by waterway.

(2) Food prices will increase because the farmers costs will increase.

(3) Petroleum products will cost more.

(4) Construction materials will cost more.

(5) Our competitive position in the world markets for grains and coal will be degraded at a time when our balance of payments need help, not headwinds.

(6) More unemployment will result.

It appears to me that most of us-in fact all of us--are the true beneficiaries of the national waterway system.

If we are to change the method by which we pay for these benefits to a system of user charges to be recovered by a levy directly on waterway users, we still must ask and answer these key questions:

1. What are the impacts of navigation cost recovery? In order to avoid severe economic disruption, user charge legislation must take full account of its effects on the communities, industries, farms and mines of each river valley and waterway service area. Each type or form of user charge as well as each recovery level has a different range of impacts. These forms keep changing! Economic, agricultural, industrial, employment and other effects

of user charges are addressed in the user charge study mandated by Section 205 of Public Law 95-502, and localized user charge effects are also being assessed in about a dozen independent studies, most of which are sponsored by governmental entities and are now in their final phases.

It is important that cost-recovery impacts be given primary consideration in structuring a user charge program so as to avert economic consequences which could exceed the revenue collections. We must know the probable effect of each incremental increase in the level of user fees in order to ascertain, in advance, when the proposed user charge will stop producing new revenue--that is, when the point of diminishing return will be reached.

The Section 205 Study as it has presently been presented to the Congress does not provide an adequate basis for evaluation, and certainly not for decisions of the magnitude required on new user charges. So far only a Department of Transportation interpretation of the study data has been presented. So far the report has not received very high marks for objectivity, logic, and credibility. The study received low priority for both attention and funding until too late to permit the thoroughness that the Congress must demand.

For example, I have heard Mr. Gianelli say as much as $20 billion needs to be invested in the coming decade for water projects in response to problems that have been identified. I have also read the 205 Study, which shows no amounts needed to be recovered for new construction, stating that no additional capacity is required before 2000, beyond the new construction now authorized. Perhaps when we are permitted to see the study data from which the report was prepared, we will begin to understand this apparent dichotomy. Or is this a dangerous inconsistency?

In addition to the Section 205 Study, there are at least fourteen area or state studies being made, including one in Alabama. Many are not complete, including the one in Alabama. These studies are the grass roots, down to the working level, studies which will reflect how it impacts today--not how ten or twenty years from now it won't really have been all that serious to those who survived.

2. What is the actual cost of the commercial shallow-draft navigation system?

The Army Corps of Engineers' navigation accounts, which were non-reimbursable for more than 150 years, include numerous expenditures not directly (and some not even indirectly) related to commercial navigation. Recreational boating, environmental enhancement and other non-commercial expenditures could account for 1/4 to 1/3 of the navigation account, we are told. A recent analysis of Corps cost data revealed shallow-draft navigation projects costing perhaps $50 million annually for O&M on which not a single ton of waterway commerce was recorded. (The projects serve recreational, fishing, and/or passenger vessels or are costal harbors of refuge.)

Obviously, it would be patently unfair to demand that shallow-draft bargelines be apportioned any share of the cost of navigation facilites which they do not use or which are only seldom or sporadically used for commercial barge and towing operations. As a vital step toward an equitable cost-recovery policy, it would seem incumbent that Congress identify the commercially viable shallow-draft navigation system. Also, extreme care must be exercised in allocating the cost of multiple-purpose waterways so that commercial navigation is assigned no more than its fair share. In addition, a strong case can be made for the assignment of some portion of navigation costs to the public policy objectives which navigation projects serve, notably national defense preparedness, regional ecomonic development and increased American exports--which are not properly the responsibility of navigation users.

In our judgement, this involves a substantial allocation of present Federal navigation cost to non-navigation (or non-commercial navigation) accounts. When more accurate cost data are obtained, and when realistic allocations are made, we are confident that the commercial navigation share of total costs will turn out to be much lower than generally reported in the past. The development of this cost information is, of course, a critical element in determining proper recovery levels.

Presently it appears from the Section 205 Study testimony that non-navigation benefits of waterways have been charged to commercial navigation. Secretary Lewis suggested in his testimony that they were unable to do a responsible job in other than the central policy issues. It appears that the issue of proper cost allocation was not studied, and that study managers adopted arbitrary cost allocation formulas. Thus one of the key ingredients directed to be addressed in the 205 Study was not addressed. Apparently we not only don't know how much should be allocated to navigation, we have yet to decide how to find out!

3. How can competitive equity among the transportation modes be achieved? While the exact amount of governmental financing of commercial waterway transportation is unknown, it is overshadowed by large-scale Federal assistance

to both railroads and highways. For example, Congressman James J. Florio (New Jersey), chairman of the House subcommittee having jurisdiction over railroads, recently stated that Federal railroad subsidies during the last five years have amounted to "some $11 billion". That would be $2.2 billion a year. Other estimates run as high as $2.5 billion a year.

Railroad aid includes the Federal government's committment to buy railroad properties and to provide the railroads with loans, grants, guarantees and stock financing. It also includes Federal support of the railroad retirement fund, currently estimated by the White House Office of Management and Budget to involve approximately $700 per year per rail employee. Further, over the four years ending in 1980, the government made some $3.3 billion in payments to Conrail.

These Federal subsidy and subsidy-effect programs are continuing, and the railroads now stand alone among the overland freight modes in facing no user charges whatever to recover government investments.

On the highways, governmental outlays on construction and maintenance far exceed the use taxes paid by motorists and truckers. In 1979 alone, the Federal Highway Administration has reported that the Federal government spent $2.3 billion on highways which was unreimbursed through highway user charge collections. There is considerable current talk about a 5c increase in fuel taxes--which would be paid by all of us, not just truckers.

These comments are not meant as an attack on the railroads or highways, we need them all to restore this nation's economy and defense. But equity demands that Federal modal assistance programs be even-haded. There must be consistency in any new cost-recovery policy as it is applied to the waterway mode. And, before waterway user charges are increased, we continue to urge the Congress to consider the issue of modal equity.

Senator Abdnor, you have already heard Secretary Lewis' easy dismissal of critics of the 205 Report who say it gave insufficient attention to the question of Federal assistance to the other freight modes, and especially to the railroads. He said that in his view spending more time on it would have been a waste of the taxpayer's money. That view does not change the fact that such a study was recognized as essential to responsible judgement by the Congress, and was called for by the Congress as part of the 205 Study. I for one hope Senator Baucus of Montana and others will follow up with additional legislation to see to it that Congress gets such a study, if additional legislation is in fact required.

In summary, America's waterways are too important to regional economies, industrial jobs, agricultural livelihoods, foreign trade, and national policy to be determined solely by those whose primary motivations are to find innovative ways to identifiy new funds. It is unfortunate that Congress is again being asked to make further judgements as to forms and levels of waterway user charges--still before it has adequate information on impact, on costs, and on equity considerations. We urge the Congress to continue action, without delay, to obtain such information and to pay close attention to what it reveals. Then, and only then, can a realistic Federal policy be developed.

Statement for Alabama Council of Waterway Associations

by C. R. Carlson, Chairman

Before the Senate Water Resources Subcommittee of the
Committee on Environment and Public Works
Mobile, AL
March 5, 1982

Senator Abdnor:

I am Ray Carlson, Chairman of our Alabama Council of Waterway Associations(1) and Executive Vice President of the Coosa-Alabama River Improvement Association, one of our six Council member organizations. We commend you, Mr. Chairman, and our distinguished Senator Jeremiah Denton for arranging this meeting in Mobile.

The Chairman's subcommittee has heard from our waterway representatives at the Washington level. By coming to Mobile you have taken a very large step closer to the problem - to the point of impact, if you will, of the proposals to drastically change the method of financing our waterways. We are aware that both you and Senator Denton went to great lengths to arrange your schedules to be away from Washington at this time. Your presence here is greatly appreciated.

Our Council is made up of five waterway associations and the Mobile Chamber of Commerce. When we met to prepare for this hearing two things were very clear, despite the confusion and complexity of the user charge issue. If we do nothing today but convey these two impressions we feel that both your conscientious inquiry on behalf of the nation and the interests of our constituent members will have been well served.

(1)The Council members include:

Coosa-Alabama River Improvement Association (C. R. Carlson, Exec. Vice Pres.)
Mobile Area Chamber of Commerce-Port & Waterways Comm. (M. B. Rambeau, Mgr.)
Tennessee-Tombigbee Waterway Dev. Authority (Glover Wilkins, Administrator)
Tennessee Valley Development Association (J. Frank Keown, Exec. Vice Pres.)
Tri-Rivers Waterway Development Association (Addie Summers, Coordinator)
Warrior-Tombigbee Development Association (Offa S. Nichols, Jr., President)

First, it was clear that we are of one accord. With so many trial balloons launched, with so many variations run up the flag pole, we had not expected to find such common agreement on where we stand. Mr. Chairman, this is significant. As you know, the citizens of this part of the country have a sense of duty and they appreciate the needs of the nation. These citizens stand up and salute, both literally and figuratively. Like you, we feel an obligation to help bring the budget under control; we want to enlist to reduce the devastating inflation which hits Alabama nearly as hard as Detroit. At the same time the Council members are in complete agreement that user charges will have a negative impact. User charges will prevent reaching priority national and regional goals such as energy independence, improved balance of payments and increased productivity - which in transportation translates into getting the most moved to where you want it at the least cost.

Second, it was clear that the citizens we represent see user charges which are aimed exclusively at navigation interests as a serious economic threat. Let me be clear on who we represent. Yes we do count among our members many of the industries, agricultural groups, shippers and barge operators who use the waterways every day. However, the larger segment by far are the state and local governments and the citizens they represent. Glover Wilkins' Tenn-Tom Authority includes five states. The Coosa-Alabama River Improvement Association which I represent includes eighteen counties and twenty-one municipalities along the waterway from Mobile to Rome, GA. These local governments support waterway development because of what water transportation has done and can do for their citizens.

These states and local governments are also the agents who have encouraged industry to locate on their waterways. These local officials were acting in good faith in their industrial development activities. In turn, industry came along and made investments totalling billions, based on a longstanding Federal policy of financing the waterway portion of our national transportation system. User charge legislation will alter the worth and return from these investments as barge rates are forced upward. Given this opportunity, other modes will not hold the line on their rates. The total freight bill for the nation will go up, not just freight rates for the industries commited to using the river.

There is concern among these local government officials that much good work will be undone. On the Alabama River a $1.5 billion General Electric site is in the planning and permitting stage. Significant increases in water freight rates could make another location more desirable. Other firms such as Ideal Basic Industries made their plans around the availability of Alabama River transportation. Ideal's combined plant and quarry represent the largest single phase private investment completed to date in Alabama. Before Ideal's facilities were completed, Alabama River Pulp's $285 million investment on the same river was the largest comparable private investment. We oppose shifting the ground rules for those who made investment decisions based on a longstanding Federal policy.

We maintain that the proposed user charges are based on totally inadequate information. The so called Section 205 Study is faulted in major aspects. It falls far short of providing the substantive base required for such a major reversal of Federal policy. Unfortunately the tone of the report leads to the conclusion that the Congress did not get a study but an apology for proponents of user charges. Before the Congress can act much more must be known about the economic impact.

We know that the Chairman has heard convincing testimony on the major issues before. Because time is short, I will state our conclusions with little elaboration.

Equity among the transportation modes has been promised but must be assured. We share the concern that user charges could lead to rail monopolies. The advantage given the rail mode in the 1981 Economic Recovery Tax Act may have already placed the other modes at a disadvantage.

We hold that the navigable rivers of the Southeast are a necessary part of a national waterway system, and that all parts of the system contribute to the whole. The integrity of this system must be maintained to permit the forces of competition to operate and make it possible to achieve national goals related to agriculture, energy, regional development and national defense.

We oppose reducing Federal investment and Federal responsibility for maintaining and improving the waterways. As the Tennessee-Tombigbee Authority statement points out, too little of our Federal budget represents investments with a long term return. We have shown where Federal investment in the waterways brought corresponding public and private investment. A reduction in Federal involvement will, in turn, inhibit private investment just at a time when public and private investment for the future are sorely needed. We see little possibility that any appreciable portion of this reduction in Federal investment in the waterways will be picked up by the states or the private sector.

The timing is also bad for reducing current maintenance and construction expenditures. Decreases during difficult economic times bring further increases in unemployment, raise costs for welfare and entitlements and threaten productive elements of our industrial base. As the Chairman will recall, the Congressional mandate for the Section 205 Study anticipated that user charges could increase the need for Federal assistance to agriculture and other interests affected. Unfortunately this was one of the many areas not examined in the study.

Our local impact study is underway but has not been completed. We estimate that the traffic on our rivers will be very sensitive to increased user charges. Our rivers are a viable national investment. The Warrior-Tombigbee was forcast to reach eight million tons of traffic by 1980. It reached eighteen million tons in 1980. The Alabama River benefit to cost ratio reached 1.9 to 1.0 in 1979, five years after the new channel from Mobile to Montgomery was opened to navigation. We can only resist proposed changes that would alter the current return and the potential of these valuable national assets.

Mr. Chairman, I will close with an example of how farmers in Alabama make the waterways work for them. Mississippi Chemical, a farmer owned corporation, barges fertilizer up the Alabama River to Montgomery at a freight saving of $5.63 a ton. This same company barges fertilizer from Pascagoula, Mississippi to the Alabama Farmers Cooperative in Decatur, Alabama. Decatur is located on the Tennessee River. This barge delivery takes twenty three days, proceeding west on the Intracoastal Waterway, north on the Mississippi, east on the Ohio River, and south on the Tennessee. Even going upstream on three of our largest rivers this is the most economical means. When the Tennessee-Tombigbee Waterway is completed, the trip from Pascagoula to Decatur will be reduced from twenty three to nine days. You can be certain that our farmers can use this significant reduction in their cost of doing business.

Our Council strongly recommends that the Congress continue to be cautious about any new user charges until the impact is fully understood. We are confident that the Congress will not be coerced into producing unwise user charge legislation just because $150 million in Operations and Maintenance funds were held hostage in the 1983 Budget Request.

Thank you again for coming to Mobile.

BEFORE THE
SENATE WATER RESOURCES SUBCOMMITTEE OF THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

IN THE MATTERS OF)
)
ADMINISTRATION PROPOSALS)
ON INLAND WATERWAY DEVELOPMENT)
AND COST RECOVERY)

STATEMENT OF POSITION

in behalf of

THE TRI-RIVERS WATERWAY DEVELOPMENT ASSOCIATION

Communication concerning
this document should be
addressed to:

(Ms.) Addie Summers
Executive Director
Tri-Rivers Waterway Development Association
P. O. Box 2232
Dothan, AL 36302

FILED AT:

Public Hearing
Mobile, Alabama
March 5, 1982

STATEMENT BY TRI-RIVERS WATERWAY DEVELOPMENT ASSOCIATION BEFORE THE SENATE WATER RESOURCES SUBCOMMITTEE OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mobile, Alabama

March 5, 19[illegible]2

Tri-Rivers Waterway Development Association represents a 24-county area along the Apalachicola-Chattahoochee-Flint Waterway in Alabama, Georgia and Florida. Historically underdeveloped, our area is just beginning to emerge as a significant factor in national productivity. This association was organized in 1960 in the belief that improving the barge channel would push agricultural and industrial production ahead faster and more efficiently.

We appreciate the subcommittee's interest in regional concerns and your scheduling of hearings for our convenience.

The Rivers and Harbors Acts of 1945-46 authorized a 9 by 100 foot navigation channel in the Apalachicola-Chattahoochee-Flint river system from Columbus and Bainbridge, Ga., to the Gulf of Mexico. Private enterprise and agencies of state and local government have invested in facilities estimated at a value of nearly $2 billion to take advantage of barge transportation. The Corps of Engineers has spent more than $300 million in efforts to provide the authorized channel. However, the channel still depends largely on rainfall. A record drought during 1980-81 reduced the channel to 7 feet throughout most of an 18-month period and closed the system for three months.

Such undependability has caused several seriously interested industries to decide against locating plants on the ACF Waterway.

Others have shown remarkable determination. As examples, an importer of agricultural minerals at Bainbridge, Ga., broke ground for a new facility at the river port there even while no barges could move. And a company supplying liquid fertilizer has just announced plans to expand its distribution center at Eufaula, Ala., and to rely on barges exclusively to move the product from its plant now under construction at Baton Rouge, La.

Soybean production throughout our area has increased dramatically in the past ten years, but riverside elevators at Phenix City and Columbia, Ala., and Blountstown, Fla., have been handicapped by lack of the authorized channel depth at harvest time.

The so-called Section 205 Study commissioned by Congress acknowledged that segment toll charges to recover the costs of operating each waterway would close down the ACF Waterway. It implied, however, that little would be lost by the closure.

As nearly as we can determine, 2,646 jobs would be affected (not all of them lost, but all subject to reevaluation) directly. Area farmers would pay $5 to $15 per ton more for fertilizer than they now pay with a usable - though inadequate - channel, and would lose the promise of still greater savings when efforts are completed to bring the channel up to the authorized standard. Soybean growers would lose an advantage of from 10 cents to $1.00 (at Blountstown) per bushel. Shippers like the coal-burning power plant at Sneads, Fla., who have never used barge transportation, could expect to pay higher rail rates with the loss of the waterway as a competitive factor in rate-making. Secondary users, such as tire manufacturers who receive carbon black made form oil barged up the river and Georgia paint manufacturers whose solvents are distributed from the port at Columbus, would also be adversely affected.

Soon after the 205 Study appeared, individual users of the ACF Waterway began refuting inaccurate information and adding missing data. Highlights of some of their comments follow.

> Continental Carbon Company, Phenix City (Russell County), Ala., manufacturer of carbon black from oil recieved by barge, 33 employees
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> Without barge transportation, the plant probably would close as it did for a five year period of low water and low demand. The plant supplies tire manufacturers throughout the Southeast. Any of those whose profits are now marginal might well choose to reduce operations here and expand more cost-effective plants outside the region. (Russell County currently has a 19.2 percent unemployment rate.)
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> Great Southern Paper Company, Cedar Springs, Ga., paper manufacturer, 1,400 direct employees. (Others engaged in wood growing, harvesting and sales)
>
> Loss of barge transportation "would result in a tremendous burden on our company to find dependable alternate transportation of a large volume of inbound fuel oil used to generate energy for making paper. And, we would lose a very important competitive freight rate-making factor. ....It is not economical to ship our large volume of fuel oil by rail or truck. Loss of barge transportation would adversely affect our cost of production and ability to compete

in certain areas of the marketplace - domestic and export. ....in 1981 our company had gross sales of $257 million with $49.8 million of that amount being export sales."

Kaiser Chemical Company, Bainbridge, Ga., fertilizer manufacturer, 289 employees

Kaiser receives pure liquid ammonia by refrigerated barge. Switching to rail would add $500,000 annually to production costs, which would be passed on to farmers. Modification of existing unloading and storage facilities would cost approximately $400,000 and congestion by rail cars would present some problems.

Lapeyrouse Grain Corporation, Phenix City and Columbia, Ala., and Blountstown, Fla., operators of elevators handling soybeans, corn and wheat

Lapeyrouse stopped shipping by barge from Phenix City sometime ago because of channel problems and favorable rail rates. Loss of barge transportation at Columbia would add an estimated 10 cents per bushel to company costs, and would reduce the price paid to farmers by that amount. Blountstown has no rail service, and trucking from there to Mobile would be prohibitive. The company might invest in facilities on the Gulf Intracoastal Canal and truck from Blountstown there, at an added cost of at least 50 cents per bushel. Blountstown handled 1,177,000 bushels and Columbia, 913,000 bushels in 1981. The company recently spent $1.5 million expanding the Blountstown elevator.

Mississippi Chemical Company, fertilizer distribution facilities at Sneads, Fla., and Bainbridge, Ga.

A farmers' cooperative, Mississippi Chemical barges dry fertilizer from Pascagoula, Miss., to Sneads and liquid fertilizer to Bainbridge. Without barge transportation, "....delivery costs would drastically escalate....we must realize the capital investment at Sneads would be jeopardized; there would be a need for additional storage capacity at Pascagoula; and delivery service would deteriorate. All this would have a staggering impact on the cost of fertilizers to farmers in that area."

Member farmers could expect to pay $6 per ton more for liquid fertilizer. For dry fertilizer, a farmer at nearby Campbellton, Fla., whose price now includes $15.04 per ton for transportation would pay shipping charges of $23.14 per ton. A farmer at Irwinville, Ga., would see his transportation cost jump from the current $20.45 per ton to $35.37 per ton.

Port Florida-West, Sneads, Fla., $5 million investment by priviate bond-holders and agencies of the federal government

With the loss of its only major user - Mississippi Chemical - the port could be expected to go into default, as it has come close to doing in the past.

Radcliff Materials, Chattahoochee, Fla., sand and gravel, 45 employees

As the only receiver of sand and gravel on the ACF, Radcliff was readily identified as the shipper cited on Page 46 of the 205 Report as handling "over 250 thousand tons per year." Manager Niel Atkinson said he actually delivered 447,090 tons in 1977 and said a $4 per ton increase in cost would close down the operation and deprive area highway and road builders of an important source of high grade friction-course material.

RYSCO Shipyard, Blountstown, Fla., builder of ocean-going vessels, 150 employees

Without channel maintenance, the plant, largest single employer in an economically-depressed county, would close.

The President's proposed FY 1983 budget would have the same effect as segment toll charges, of course, since it provides no funds for dredging and snag removal.

Shippers on the ACF Waterway are not now receiving "a free ride." They pay a fuel tax slated to increase to 10 cents per gallon in 1985.

The officers and directors of this association believe that Congress should not consider increasing the tax or shifting the responsibility for new construction to users or states until the following actions have been taken:

1. The ACF navigation channel authorized 36 years ago is provided on a dependable basis.

2. National policies on cost recovery have been adopted incorporating equity for all transportation modes.

3. Regional impact studies - including one for Alabama due by May - have been completed and their results considered in national perspective.

Our directors believe in free enterprise. We support stringent cost-accountability for all agencies of government. We want a balanced budget. We want American industries to be able to compete more favorably with other countries. We support our farmers in their struggle to sustain and even advance the productivity that has made American agriculture the envy of the world. We do not believe hasty, piecemeal, approaches frought with serious risks to key segments of the economy will achieve these ends. We view the current user-charge proposals and the cut-off of funds to still-developing waterways as dangerous.

We urge Congress to take a broader look at the government's role in transportation and to frame within that context whatever additional user-charges for all modes may be found truly to serve the national interest.

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TESTIMONY: **JAMES A. TOLAR**

Thank you Seantor Abnor for the opportunity to testify here today. I am James A. Tolar. I am a farmer in west central Alabama. My farm produces 75,000 bushels of soybeans, 20,000 bushels of wheat and 18,000 bushels of oats. My dairy produces 2.5 million poinds of fluid milk. Each year that I produce these products I must purchase 1,095 tons of dairy feed, 821 tons of corn (27,366 bushels) 600 tons of fertilizer and over 100,000 gallons of fuel. In addition, I am the owner of Tolar Fertilizer. We sell approximately 5% of the fertilizer used in a five (5) county area surrounding me. In addition, I own and operate the Tolar Lime Company. Each year we import 4,500 tons of fertilizer into Union Town, Alabama. I am Vice-President of the Union Town Elevator Company, which trades 2.4 million bushels of wheat and soybeans per year, and I am Director of the Central Bank of Union Town, a member of the Alabama Farm Bureau Soybean Committee and I am 4th Vice-President of the Alabama Farm Bureau Federation. I am confident that my comments here today will reflect the feelings of all my customers and neighbors.

I will keep my comments brief because it takes very little time to report to you that I oppose the imposition of users' fees on the waterways of Alabama or of this nation. I oppose them both in principle and as a practical necessity. First: In principle beacuse I feel strongly that the public is served to a degree higher than the cost of the development and operation of a waterway system. I say this for two reasons: One, the farmer is already subsidizing the price of food in the domestic market. The productivity increases of the 50's and 60's have been totally discounted in the market place, by increased production costs and by production at levels which far exceed the inelastic demand of both domestic and viable export markets.

The result of this is the disasterous economic condition of the entire agricultural sector. Two, there are many instances where the public good is perceived to be served best by collective public participation. I would suggest that Defense, Education, Public Health, Medical Research and even Agricultural Research and Extensions have the historic and philosophical base in the serving of the public good. Through public supported programs, I contend that the establishment and maintenance of navigation systems on waterways to move the goods produced by the agriculture of this nation falls into this category.

At the practical level, I would contend that in my experience and in the experience of my neighbors producing and marketing the products of our farms which feed the people of this nation, the farmer pays the freight. I know of no instance when we have individually or collectively been able to pass these costs foreward to buyers or ultimate consumers. For example, the difference between the price we receive and the daily quote for wheat or soybeans on the Chicago Board of Trade is minus 40-75¢/bushel. This is called basis and is the price I pay for freight and handling between my farm and the Port of Mobile. While this basis may fluctuate, I have never seen it at zero. There is no reason to believe that these charges now being made will not increase if the cost of transportation is increased through users' fees. Payment will be made and the farmer will make the payment at the first point of delivery.

I would estimate that something in excess of 65% of my crops sold are presently delivered to the Port of Mobile via water. Today and ever since the Soviet grain embargo which cost me personally over $60,000 I have been farming on a marginal basis or subsidizing portions of my operation. I contend that I cannot afford so much as a penny increase in my price because the aggregate would break me if increased production costs don't.

Users' fees for agriculture could be the straw that breaks the farmers back.

This brings me to the other side of the equation. Users' fees charged to fertilizer, chemicals or fuel would be passed on to me and my fellow farmers. You know that everyone in the agribusiness community lives on my gross income. Remember I am forced to live on my net, if it exists. Please remember that in this nation corporations which sell the items of production--fuel, feed, seed, fertilizer do not pay taxes. People pay taxes in increased costs. These users' fees would be passed on to me. I know this because that is how I operate in the fertilizer and lime business. We add our costs to the price that we charge and attempt to make a profit.

I therefore base my appeal to you not to impose users' fees for waterway transport on either the imput to or the products of agriculture. I thank you again Senator Abnor, Senator Denton for taking your valuable time to listen to this poor farmer.

Senator Abdnor, Senator Denton and Members of the Subcommittee on Water Resources of the Senate Committee on Environment and Public Works.

My name is William E. Powell and I am Vice President of Lapeyrouse Grain Corporation. Let me thank you for allowing us the opportunity to testify before this Committee today.

First, in way of background, let me share information about Lapeyrouse Grain Corporation and myself. Lapeyrouse, a Mobile based Company, has been in business since 1959, buying soybeans, wheat and corn from farmers in Alabama, Mississippi, Florida, and now, in Kentucky and Georgia. This grain is moved from our country elevators by rail, truck and barge to the Alabama State Docks in Mobile for export. We operate our own tugboats and barges along the inland waterway system in this area. We also have a number of lease covered hopper cars for use in rail shipments. Last year we shipped over 50% of the local crop to Mobile by barge.

I am a native of this area, received a Ph. D from Auburn University, and have a family farm fronting on the Tombigbee River, north of Mobile.

During 1981 a record amount of grain was shipped through the port of Mobile. New advances in production technology, the completion of the Tenn-Tom, and the expansion of the State Docks grain elevator, coupled with the world need for grain and the importance of grain exports to our balance of trade, all strongly indicate that more and more grain will be exported in the future. This is provided, of course, that we are able to compete in the world market. An example illustrating potential in our area occurred this past year. In 1981, Alabama farmers produced 24.9 million bushels of wheat valued at $83 M dollars. This was a drastic increase from the 6.6 M bushels worth $25 M grown the previous year. Much of this potential for growth is right along our inland waterways.

We, along with the State Docks through its Inland Docks System, have made a large commitment to the agricultural industry located along Alabama's inland waterways. Over the years because we were able to use the waterways with its historical low transportation costs, we have been able to operate these elevators economically. This year that advantage from water transportation would mean 5¢ to 10¢ per bushel extra to the farmer. In years like 1981, this may well be the difference between a profit and loss to many of the 3500 producers that market their grain at our elevators located on the inland waterways.

In an effort to understand the proposed legislation in Senate Bill 810, we have reviewed the report entitled "Inland Waterway User Taxes and Charges", which was presented to the Secretary of Transportation in February, 1982. We are concerned with the number of erroneous presumptions included in this report that relate to the grain industry.

We are opposed to any increases in the user charges on our inland waterway systems. The main reason for our opposition is that any changes in transportation costs will be passed back to the producing segment, the farmer. We have seen figures indicating that an increase of 5-6¢ per bushel can be expected if the proposed legislation goes into effect. Gentlemen, with today's severe economic situation, the farmer, nor any other segment of the grain industry, could afford to absorb these additional costs.

As a rail shipper also, we are concerned that our farmers in areas away from the inland waterway system where elevators are served by other modes of transportation, would also receive a lower price for their grain. This would result from similar increases in the transportation costs at these points as rail rates would rise also.

To illustrate why we say the user charges will be passed back to the farmer, let me briefly describe how we, and I assume most of the grain trade, computes the price of grain paid to the farmer at the inland elevators. This is done by simply subtracting a set elevation charge (which covers the cost of operating the facility; pays salaries and provides a margin) and the transportation costs from the current market price. Any increases in the cost of transportation, would lower the price received by the farmer. Also, any significant reduction in volume due to a more competitive market at another elevator would also reduce the price paid to the farmer as this would increase the elevation cost.

For example, let's look at two elevators, Elevator A and Elevator B. Elevation cost at each elevator is 10¢ per bushel. Elevator A has a transportation cost of 10¢ per bushel to Mobile while Elevator B's transportation cost is 25¢ per bushel. A farmer would receive a price of 20¢ per bushel (10¢ + 10¢) under the current Mobile market for his grain delivered to Elevator A, and 35¢ per bushel (10¢ + 25¢) under for grain delivered to Elevator B. A 5¢ per bushel increase in transportation cost would result in a price paid to the farmer of 25¢ per bushel under at Elevator A and 40¢ under at Elevator B.

These figures in no way reflect the grain market and would be the same if grain was selling for $5.00 per bushel or $8.00 per bushel. The selling price is determined by world supply and demand and has no relationship to the cost of production. This is very evident today when the current market price is below the farmer's cost of producing the crop.

We also disagree with the statement made in the report on page 10 where it stated that the 5-6¢ per bushel increase "would be swamped by normal swings in the world grain market". This is another case where its obvious that the writer knows little about the grain trade. The grain market just does not work that way. Often trades are made or lost on differences of less than one cent. Again, this is the case whether we have a $2.00 market or a $5.00 per bushel price.

Another real point of concern that we have is that over the past years the United States has enjoyed a big advantage in grain exports largely because of our historical cheap transportation. One only has to look at transportation costs in Brazil and Argentina to understand. Due to the increasing competitiveness of the business and the aggressive competition from other world grain producing countries, the U.S. is fast becoming a residual supplier rather than the main source of grain. Our great country simply can not afford to lose any more of our competitive edge resulting in a still smaller share of the world grain exports.

Before any type user fees could be applied, the real user of the inland waterway system would have to be determined. It is apparent that recreation, sport, flood and erosion control, national defense, and hydroelectric interests are also users in the inland waterways. We contend that all citizens are users and receive direct benefits. These benefits come in the way of a plentiful supply of cheap food and more stable economy as a result of our ability to export large amounts of grain. Although governments in other grain producing countries, who compete in our market, subsidize their grain exports, we do not feel that our 195 year old government policy toward the inland waterways is a subsidy. It has been a wise investment in one of our major natural resources.

We strongly feel that any move toward a segmented ton mile charge, instead of a fuel tax, would only be making a bad situation worse. This segmented type user charge would greatly reduce current operations and prohibit expansion along much of the waterways where we have elevators. In fact, water transportation would have to be completely discontinued on several systems as the increases in transportation costs would simply price the water mode of shipping out of the market.

We urge this Committee that before any decision is reached, to further study, in much more detail, the impact that user fee charges will have on the farmer and the agricultural economy. We also hope more factual information is obtained relative to how the grain industry actually operates prior to making a decision that will greatly effect us.

Before closing, we would like to briefly voice our concern about recent proposed reductions in the operating and maintenance budget for the Corps of Engineers. Information that we have received indicate that operations will be reduced on most of the inland waterways that we use and completely stopped on several others. This drastic change would have a real negative impact on our company, the farmers along the waterways, and the economy of much of this area. One point of real concern is that the traffic on several of these systems, especially the Warrior-Tombigbee has dramatically increased since 1978, the year that data was collected for the study. We ask your support in reducing the impact that budget reductions will have on our inland waterway systems.

Again, we would like to thank you for giving us this opportunity to voice our concerns on this important matter effecting our inland waterways. Thank you.

Statement of Philip M. Lanier before the Subcommittee on Water Resources of the Senate Committee on Environment and Public Works on the subject of Inland Waterway Development and the Issue of Percentage Cost Recovery on the Federal Expenditures of Operating, Maintaining and Constructing the Inland Waterways

Mobile, Alabama
March 5, 1982

My name is Philip M. Lanier. I am Executive Vice President-Law and Public Affairs of Family Lines Rail System. My mailing address is: Post Office Box 32290, Louisville, Kentucky 40232 and my residence is in Louisville, Kentucky.

The Family Lines Rail System is composed principally of Seaboard Coast Line Railroad Company and Louisville and Nashville Railroad Company, there being part of the System also a number of smaller lines. The System operates throughout the southeastern part of the United States with lines extending also from the Ohio River to Chicago.

Appearing on behalf of that railroad system, I point out that we are a part of an industry which, as a whole, supports the recovery of government expenditures on behalf of the water carriers of this country. Our individual interest is especially significant and large because our system serves a territory which is heavily populated with man-made and man-enlarged waterways. The Ohio River -- Tennessee River -- Mississippi River system is perhaps the greatest in the country. There are proposed developments in the southeast, the most significant of which is the Tennessee-Tombigbee system, which will increase the intensity of water carriage in the southeast.

I appear in support of the recovery of government expenditures on behalf of water carriers and in support of a user charge method of that recovery.

Our position is founded upon fiscal responsibility, the making of sound economic decisions in the marketplace and competitive equity.

The huge amounts of public funds which are spent in the construction, operation and maintenance of waterways -- expenditures which are almost exclusively prompted for commercial-user reasons -- loom even larger at a time when the nation realizes that it is spending beyond its means in many respects. The government is financially unable to attend to all the needs of the country when many of those needs can be met from private resources. Those necessary functions which can be self-supporting should be self-supporting and the commercial water carrier industry is, in certain part, one of those functions. One of the problems with the present government policy is that it encourages -- indeed, almost mandates -- the continuance of certain water carrier functions which are not necessary and never will be and which certainly are not ever going to be self-supporting. This is one of the great defects in the present system.

Present policies of the govenment make sound economic decisions impossible. Subsidies obscure the facts and render difficult correct economic decisions, encouraging incorrect ones.

How often have I heard it said that it costs less to ship by barge. That statement was originated by and is fostered by people who know better and who simply do not want to state the facts. They know that the statement speaks only of rates, that is, of the direct cost to the shipper. It does not speak of the full economic cost. Only when the government expenditures are included, only when such costs as that of trucking to a barge loading site are included can it be said that the figure developed is a "cost" capable of being compared with the costs attributable to other modes of transportation.

The statement about it costing less to ship by barge is a smoke screen, bringing to mind the statement of Dean Acheson many years ago that is not always true that where there is smoke, there is fire; often, he said, there is only a smoke machine.

When the costs of moving freight by water are taken into account -- all of them, that is, direct and indirect, private and government, -- then it will be found that quite often only the charge to the shipper may be lower than the charge by another mode; the costs are much higher.

I made reference earlier to competitive equity. In our economic system, there is a place for government support of a fledging industry of potential worth; there is room for short term, one shot, specifically-targeted assistance with an early termination date, intended to meet some specific and readily-curable problem. The system of free enterprise which we have established has become one of a mixed form in which government and private sectors cooperate from time to time toward national goals. But that system also contemplates and dictates that on a case by case basis, that particular partnership will not permanently continue, being of a nurturing nature only.

There is no place in it for a permanent program of government intervention through financial support, yet that is what the supporters of water transportation subsidies want.

If that arrangement were to continue, we would never have a transportation system of the country, that is, one which is efficient, effective and economically correct. The obvious reason is that the subsidy to water carriers will always prevent the correct economic choice of the least-cost, highest benefit carrier.

The other modes of transportation deserve the chance to compete in the marketplace on marketplace factors. Congress has made great strides in that direction by its deregulation efforts. Completion of an adequate water user charge program will also contribute to the completion of the task of creating an honest transportation marketplace.

The position which I advance is re-enforced when it is recognized that beneficiaries of the present government largess include some of the largest of our national industries. Great companies in the oil, chemical and grain industries move their traffic at below full cost at the taxpayer's expense. It is not just a small, struggling group of barge lines, living at the edge of disaster, that campaign for the continuation of the subsidy. The beneficiaries of this program do not merit the support and those who need it should not longer continue in business.

There are substantial dangers in continuing the present practices of government. Public support of the waterways puts other carriers into competition with the United States Treasury, a competition which will not last long. The uneven government attitude toward the various modes of transportation was one of the factors which brought the railroads to the difficult years of the 1950's and 1960's, culminating first in bankruptcies and then in recognition by government that something had to be done to restore competitive equity. The deregulation efforts of government in the past few years are one evidence and result of that recognition; the imposition of adequate user charges on waterways should be another.

Constructive in the beginning, when it gave support to a worthwhile industry development, government water policy has now become destructive. We should look at it in terms of the long run.

Government support had its place in the beginning for the water carriers when a new industry faced substantial capital costs and when there was the peculiar fact that the rights of way were already in existence, but were publicly owned and to some degree inadequate. Certainly, the industry has had long enough to become mature. It is mature. It simply has weak and immature segments, but as to them the time has passed when the public need to think of itself as a sponsor.

The strong lines do not need support. To continue subsidies simply redistributes income from the taxpayer into the hands of private entities.

The weak lines no longer merit support; they have had long enough.

The remedy for this situation is adequate user charges [illegible] on behalf of my companies, I urge your support of the present proposals.

Thank you for the opportunity to appear before you. I will be happy to respond to questions.

THE MOBILE BAY AUDUBON SOCIETY
BOX 9903
MOBILE, ALABAMA 36609

SENATE HEARING ON INLAND WATERWAY DEVELOPMENT AND CURRENT COST RECOVERY PROPOSALS
MARCH 5,'82-FIRST NATIONAL BANK BUILDING, MOBILE, ALABAMA

SENATOR JAMES ABDNOR(R*S.D.)-CHAIRMAN OF THE SENATE ENVIRONMENT AND PUBLIC WORKS SUBCOMMITTEE ON WATER RESOURCES

AS THE MBAS'S PRESIDENT, I HAVE BENN ACTIVELY INVOLVED IN WATERWAY DEVELOPMENT ACTIVITIES AND AM ESPECIALLY KNOWLEDGEABLE ON THE TENN TOM WATERWAY; BLACK WARRIOR-TOMBIGBEE WATERWAY AND MOBILE HARBOR PROJECTS.

I WAS A MEMBER OF THE CORPS OF ENGINEERS' CITIZEN ADVISORY COMMITTEES. AN INVITATION WHICH I FEEL SURE THEY HAVE REGRETTED ON OCCASSION. THESE COMMITTEES ARE NOW IN THE PROCESS OF BEING DONE AWAY WITH-LEGALATIES BEING GIVEN AS THE REASON. HOWEVER THESE CITIZEN ADVISORY COMMITTEES SHOULD CONTINUE AS THEY HAVE ALLOWED THOSE OF US WHO WANTED TO BE IN ON THE PRELIMINARY PLANNING OF PROJECTS,TO EXCHANGE IDEAS, AND BE PART OF THE PLANNING PROCESS WHICH IN OUR ESTIMATION HELPED PROMOTE A POSITIVE RESULT.

I RECOGNIZED EARLY THAT THE PLANNERS AND PROMOTERS OF ALABAMA'S INLAND WATERWAYS AND PORT DEVELOPMENT HAD A SERIOUS CASE OF TUNNELVISION. THEY COULD EASILY SEE THE ECONOMIC BENEFITS THAT COULD POSSIBLY ACCRUE FROM A PROPOSED PROJECT AND HAD NO PROBLEM SUPPORTING THE PROPOSAL, BUT WOULD NOT EMPHASIZE THE OVERALL CUMULATIVE SOCIAL, ECONOMIC AND ENVIRONMENTAL NEEDS AND RESULTIVE IMPACTS THAT COULD RESULT WITHOUT TRUE CONSIDERATION AND EVALUATION. THEY SEEM CONTENT TO WEAR "BLINDERS". THEREFORE ALABAMA AND THE NATION'S TAXPAYERS ARE PICKING UP THE TABS WITH THE BENEFITS GOING TO THE "FAT CATS."

NEIGHBORHOODS, CULTURAL, AND NATURAL RESOURCES HAVE AND ARE BEING DESTROYED WITHOUT ANY CONSIDERATION OF PRESERVATION OR MITIGATION. OUR IMPORTANT SOCIAL AND CULTURAL WAY OF LIVING-"THE OLE SOUTH"- IS BEING MODIFIED AND OR DESTROYED AND OUR QUALITY OF LIFE IS CHANGING DRASTICALLY, IMPACTING NOT ONLY ON OUR COMMUNITIES HEALTH, BUT NATIONAL NATURAL RESOURCES AND PROPERTY VALUES. ALL IN THE NAME OF PROGRESS.

THE REAGAN ADMINISTRATION'S PROPOSAL TO REPEAL THE RULES DEVELOPED BY THE FEDERAL WATER RESOURCES COUNCIL FOR REVIEWING PROPOSED WATER PROJECTS AND REPLACE THEM WITH NON BINDING "PLANNING GUIDELINES" WILL BE AN OPEN INVITATION TO CONTINUE MORE BLATANT PORK BARREL POLITICS SUCH AS THE TENN TOM WW AND THE BLACK WARRIOR-TOMBIGBEE SYSTEMS.

IT'S OUR UNDERSTANDING THE SEC. OF TRANSPORTATION REDENTLY MADE A COMMENT THAT A USER FEE ON THE PROJECTED TRAFFIC ON THE TTWW WOULD BE INSUFFICIENT TO EVEN APPROACH FULL COST RECOVERY. THERE IS NO "FREE LUNCH"-AT LEAST THAT IS WHAT IS COMING OUT OF WASHINGTON.

PROMOTERS AND USERS OF WATERWAYS SHOULD THEREFORE BE REQUIRED TO ASSUME RESPONSIBILITY IN CONSTRUCTION, OPERATION AND MAINTENANCE OF WATERWAYS. ANY UN-AUTHORIZED PROJECTS SUCH AS THE BLACK WARRIOR-TOMBIGBEE PROPOSAL SHOULD MEET SUCH A REQUIREMENT. THOSE OF US INVOLVED AND AWARE OF THE TTWW, BWT AND PROPOSED MOBILE ENERGY PORT ARE SOMEWHAT AMAZED THAT THE REAGAN ADMINISTRATION PLANS TO CONTINUE TO SUPPORT THE TTWW AND AT THE SAME TIME ACTIVELY PURSUE

DRASTICALLY CUTTING PROGRAMS SO VITAL TO OUR DOMESTIC HEALTH AND SECURITY. TO MENTION A FEW THAT APPLY TO WATERWAY PROJECTS FOR THEIR PRIMARY AND SECONDARY IMPACTS:

I) THE CLEAN AIR ACT PROTECTS OUR HEALTH, OUR ENVIRONMENT AND OUR PROPERTY. THOUSANDS OF LIVES ARE SAVED THROUGH REDUCTION OF AIR POLLUTANTS ANNUALLY AND LOWERS THE DEATH RATE FROM CANCER, LUNG DISEASE AND HEART ATTACKS.

ACID RAIN KILLS FISH, DAMAGES CROPS AND FORESTS AND STERILIZES LAKES COSTING THE NATION CLOSE TO SEVERAL BILLIONS OF DOLLARS ANNUALLY.

2) THE CLEAN WATER ACT IS VITAL FOR OUR FISHERIES RESOURCES. WETLAND PROTECTION NEEDS TO BE CONTINUED FOR THEIR "FREE SOCIETAL VALUES". CLEAN WATER IS VITAL FOR INDUSTRIAL GROWTH, RECREATION AND TOURISM.

3) ENDANGERED SPECIES ACT IS IMPORTANT TO US ALL. IN THE PRESERVATION OF PLANT AND ANIMAL SPECIES WE PRESERVE OUR SPECIES AND OUR WORLD. SCIENTESTS TELL US THERE ARE MANY UNKNOWN IMPORTANT BENEFITS THAT SERVE THE INTEREST OF HUMAN WELFARE. THE MANY MATERIAL BENEFITS OF PLANT SPECIES PRESERVATION INCLUDE OPPORTUNITIES FOR IMPROVED CROP PRODUCTION THROUGH CROSS BREEDING WITH RELATED WILD SPECIES.

PRODUCTION OF NEW MEDICINES AND INDUSTRIAL CHEMICALS FROM SUBSTANCES FOUND NATURALLY ONLY IN WILD PLANTS OR ANIMALS. OF COURSE THERE IS THE NON-MATERIAL BENEFITS WHICH INCLUDE THE OPPORTUNITY FOR COLLECTING, PHOTOGRAPHING OR SIMPLY

OBSERVING WILD CREATURES THAT MANY MILLIONS OF PEOPLE ENJOY. OBVIOUSLY THE PROTECTION THESE ACTS PROVIDE FOR OUR HEALTH, WEALTH AND WELFARE, ARE CRITICAL. THE LOSS OF THESE BENEFITS IS THE BASIS FOR OUR OBJECTIONS TO THE NEED FOR THE TTWW, THE BW-T AND THE PROPOSED ENERGY PORT FOR MOBILE AT ANY AND ALL COSTS. TOO MANY ISSUES ARE AT STAKE THAT ARE NOT LEGALLY AND SENSIBLY BEING CONSIDERED OR PLANNED FOR IN THE PRELIMINARY AND CONTINUING STAGES.

THE ESCALATING COSTS OF THE TTWW ARE NOT ACCEPTABLE. WHEN PEOPLE ARE NOT ABLE TO FIND JOBS, BUY FOOD, RECEIVE REASONABLE MEDICAL CARE, BUY HOMES, ETC. THEN WE KNOW THIS NATION IS IN TROUBLE AND THE ADMINISTRATION AND CONGRESS NEED TO CHANGE THEIR WAYS AND QUICKLY.

AS A HOUSEWIFE I'M APPALLED AND ASTOUNDED AT THE COSTS OF GROCERIES. MY HUSBAND MADE SOME DEROGRATORY REMARKS ABOUT THE MONIES I WAS SPENDING ON MY TRIPS TO THE STORE. HE HAS SINCE MADE SEVERAL TRIPS AND BOUGHT GROCERIES AND HE NOW RAISES CAIN, BUT NOT WITH ME.

REGARDING THE ESCALATING COSTS OF THE TTWW*ACCORDING TO THE SUPPLEMENTAL DEIS THE CORPS RECENTLY RELEASED UNDER COURT JURISDICTION-PGS. 134-TABLE 40 IT DISCLOSES THAT THE TTWW WILL RESULT IN THE OBLITERATION OF 8,898 ACRES OF PRIME FARMLAND DIRECTLY AND PERHAPS UP TO AN ADDITIONAL 5,070 ACRES AS A RESULT OF WATERLOGGING.

ACCORDING TO THE NATIONAL AGRICULTURAL LANDS STUDY--THE FEDERAL GOVERNMENT, THROUGH ITS INFRASTRUCTURE INVESTMENTS DECISIONS, IS A MAJOR CAUSE OF THE LOSS OF PRIME AGRICULTURAL LAND THROUGH CONVERSION TO BUILT UP USES. THIS LOSS IN LAND CAPABILITY REPRESENTS A SIGNIFICANT LOSS TO THE COUNTRY. IT REPRESENTS A DIRECT ECONOMIC LOSS THAT SHOULD BE REFLECTED IN THE ECONOMIC ANALYSIS. THE LOSS WOULD BE MEASURED BY THE INCREASES IN ENERGY(IN THE FORM OF FERTILIZERS, EQUIPMENT AND TRANSPORTATION FUEL AND PESTICIDES AND ENERGY USED IN IRRIGATION) AND OTHER INPUTS NECESSARY TO INCREASE AGRICULTURAL PRODUCTION ON OTHER SPECIFIED ACREAGE BY AN AMOUNT NECESSARY TO COMPENSATE FOR LOST PRODUCTION ON THE TOMBIGBEE RIVER VALLEY ACREAGE.

IN THE S.E.I.S. PAGS. 159-164 IT SUGGESTS THAT THE LOSS OF BOTTOMLAND HARDWOODS AND OTHER HABITAT TYPES, AS SET OUT IN TABLES 49-52 REPRESENTS THE WILDLIFE RESOURCES OF 688,000 TO I,200,000 ACRES OF LAND. MITIGATION IS AN ISSUE THAT SHOULD BE INCLUDED IN INLAND WATERWAY PROJECTS AND CARRIED OUT.

A RECOMMENDED MITIGATION PLAN PRESENTED BY THE U.S. FISH AND WILDLIFE SERVICE IN CO-OPERATION WITH MISS. AND ALA. STATE AGENCIES UNDER THE FISH AND WILDLIFE CO-ORDINATION ACT WOULD, IF IMPLEMENTED ALLAY SOME OF THE LOSSES ALREADY CAUSED BY THE TTWW. FUNDS TO PROPERLY MANAGE THE PROPOSED 97,000 ACRES OF FLOODPLAIN FORESTED WETLANDS SHOULD ALSO BE INCLUDED. FORESTED WETLANDS OR BOTTOMLAND HARDWOODS ASSOCIATED WITH CYPRESS TUPELO SWAMPS ARE AMONG THE MOST PRODUCTIVE WILDLIFE HABITATS.

THEY ARE IMPORTANT FOR THEIR WATER RECHARGE, FLOOD ATTENUATION, DEBRIS REMOVAL AND TIMBER PRODUCTION TO MENTION A FEW OF THEIR MANY FREE BENEFITS. MITIGATION MUST BE AN INTEGRAL PART.

THE CONTINUOUS EFFORTS BY PROMOTERS OF INLAND WATERWAYS MUST REALIZE THAT TRIBUTARIES OF MAJOR WATERWAYS MUST REMAIN UNCHANGED IN ORDER TO PROVIDE ESSENTIAL HABITAT FOR CERTAIN PLANT AND ANIMAL SPECIES AND ENHANCE WATER QUALITY. IT IS OUR RECOMMENDATION THAT THE SIPSEY, NOXUBEE, TIBBE AND BUTTAHATCHEE RIVERS ARE MAINTAINED IN THEIR NATURAL STATE.

THE TTWW IS BEING SMUGGLED UNDER THE VEILED, UNTRUE STATEMENTS WHICH IMPLY THERE IS NO NEED FOR THE SOUTHERN TERMINUS FROM DEMOPOLIS TO MOBILE. ACCORDING TO DOCUMENTS FROM THE CORPS THIS IS UNTRUE. THE "BOTTLENECK" SOUTH OF DEMOPOLIS EXISTS, BUT WAS NOT PROPERLY ADDRESSED IN THE S.D.E.I.S. AS IT APPEARS THE CORPS DOES NOT WANT TO OPEN UP A CAN OF WORMS. THE BILLION OR TWO NEEDED FOR THIS ADDITIONAL UNAUTHORIZED WORK, THE PROPOSED STRAIGHTENING OF THE TOMBIGBEE RIVER SYSTEM, LOCK DESIGN AND EXPANSION, BRIDGE LOCATIONS, ACQUISITION OF LANDS TO ACCOMODATE DREDGE MATERIAL FOR THE NEW WORK AND MAINTENACE OVER THE YEARS WILL BE EXTREMELY COSTLY AND IT IS RECOGNIZED IT'S BEST TO KEEP THIS NEED "IN THE CLOSET" AT LEAST FOR THIS YEAR.

THE PROPOSED DESTRUCTION OF OUR VITAL RIVERINE FLOODPLAIN SYSTEM TO THE NORTH OF US WILL NOT BE ACCEPTABLE.

WHAT WILL MODIFICATION OF THIS FLOODPLAIN SYSTEM DO TO OUR FLOODING PROBLEMS THAT OCCUR NOW ANNUALLY IN OUR COASTAL AREA COSTING

THE NATION'S TAXPAYERS AND LOCAL CITIZENS MILLIONS OF DOLLARS?? WILL MODIFICATION INCREASE FLOODWATER CRESTS, SPEED AND ACCELERATE SEDIMENTATION PROBLEMS IN MOBILE HARBOR AND MOBILE BAY BECAUSE OF THE PROPOSED DISTURBANCE AND DESTRUCTION OF A NOW NATURALLY WINDING RIVER FLOODPLAIN SYSTEM?? IN STRAIGHTENING OUT NATURAL RIVER BENDS THIS COULD PROMOTE SLOUGHING AND EROSION AND WITH INCREASED BARG TRAFFIC IT WOULD SEEM THAT SEDIMENT LOADS WOULD INCREASE DRAMATICALLY, ENDING UP IN OUR LAPS.

EACH YEAR WE HAVE PROBLEMS TRYING TO FIND PROPER DISPOSAL SITES FOR DREDGED MATERIAL IN ORDER THAT OUR PORT WILL REMAIN OPEN. THE CORPS TELLS US WE HAVE AN "EMERGENCY" SHOALING PROBLEM IN OUR HARBOR AND ARE IN THE PROCESS OF TRYING TO FIND AREAS TO PLACE OVER I MIL. CU. YDS. OF MATERIAL WITHIN A FEW MONTHS. WITHIN A YEAR THIS PROCESS WILL HAVE TO BE REPEATED.

A PRIME WETLAND IS THREATENED BECAUSE OF A PROJECTED LONG-TERM NEED. PINTO PASS IS A LITTLE GEM IN THE MIDST OF OUR HARBOR AND COMMERCIAL AND INDUSTRIAL DEVELOPMENT. SO FAR WE HAVE COME UP WITH ALTERNATIVES TO KEEP THIS AREA PROTECTED, BUT TREMENDOUS "SHORT-SIGHTED" PRESSURES EXIST THAT WANT TO DESTROY THIS VITAL WETLAND FOR ADISPOSAL SITE AND FUTURE DEVELOPMENT. THE OLD METHOD OF "GOBBLING UP WETLANDS" FOR THIS USE IS STILL THE CORPS ACCEPTED, ECONOMIC METHOD. THEY WILL HAVE A FIGHT ON THEIR HANDS THIS TIME, BUT THIS SHOULD BE AN EXAMPLE OF A PROBLEM WE HAVE IN TRYING TO DEAL WITH SEDIMENTATION OF OUR HARBOR FROM UPLAND NEEDS, AND IN CONJUNCTION WITH AN OPEN HARBOR, IN ORDER TO MINIMIZE ACCIDENTS AND SPILLS, BARGE OPERATORS SHOULD BE WELL QUALIFIED TO PILOT AND OPERATE THE VESSEL. SPILL DRILLS SHOULD BE A REQUIREMENT IN ORDER TO MINIMIZE ACCIDENTS AND SPILLAGE. HAZARDOUS MATERIALS ARE BEING SHIPPED MORE BY BARGE AND EVERY EFFORT MUST BE TAKEN TO LESSEN ACCIDENTS AND PROTECT RESOURCES.

THE PUSH FOR AN "ENERGY PORT" FOR MOBILE IS BY VERY SHORT-SIGHTED INDIVIDUALS IN WANTING TO DEEPEN THE CHANNEL FOR THE EXPORTING OF COAL TO FOREIGN PORTS. THE PLAN DOES NOT CONSIDER THE POTENTIAL DESTRUCTION OF MOBILE BAY-- A MAJOR NATIONAL ASSET. THE SECOND LARGEST ESTUARY IN THE UNITED STATES. BILLION DOLLAR INDUSTRIES DEPEND ON THIS ESTUARY REMAINING A HEALTHY ECOSYSTEM--

OUR SPORT AND COMMERCIAL FISHERIES
RECREATION TOURISM
THE TREMENDOUS INVESTMENTS IN HOMES SURROUNDING
THE PERIMETER OF THE BAY
RECREATIONAL BOATING IS AN IMPORTANT INVESTMENT-
AT LEAST FOUR MARINAS ARE WITHIN THE PERIMETER

THERE ARE ALTERNATIVES. OTHER TRANSPORTATION MODES HAVE NOT BEEN PROPERLY ADDRESSED EITHER WITH THE TTWW OR THE PROPOSED ENERGY PORT.

THE NATIONAL ACADEMY OF SCIENCE'S REPORT-- PUBLIC INVOLVEMENT IN MARITIME FACILITY DEVELOPMENT DISCUSSES AND GIVES EXAMPLES FOR PORT DEVELOPMENT NATIONALLY AND INTERNATIONALLY. THE REPORT SPECIFICALLY ADDRESSES THE NEED FOR PUBLIC INVOLVEMENT AND ELIMINATES TO QUITE A DEGREE*MANY PROBLEMS AND DELAYS THAT NOW

ARE EXISTING.

REGIONAL CONCEPTS FOR PORT DEVELOPMENT COULD PROVIDE THE ALTERNATIVE FOR THE DESTRUCTION OF MOBILE BAY. AN INTERNATIONAL COMPANY IS CONSIDERING AN OFFSHORE BULK HANDLING PORT IN THE GULF OF MEXICO OFF ALABAMA'S COAST.

COAL SLURRY PIPELINES ARE MORE ECONOMICALLY AND ENVIRONMENTALLY ACCEPTABLE TO THE DESTRUCTION OF AN IRREPLACABLE RIVERINE SYSTEM.

SHIPS ARE MODIFIED TO ACCOMODATE CHANGES IN MODES OF WATERWAY TRAFFIC. THEY COULD BE CONSTRUCTED SIMILAR TO CONTAINER SHIPS THAT NOW CARRY TRUCK LOAD OF COMMODITIES. THESE VESSELS COULD ROLL ON*ROLL OFF BARGE LADEN VESSELS AT AN OFFSHORE PORT. THIS MAY COST A GREAT DEAL AT FIRST, BUT WHEN ALL THE LONG-TERM NEEDS FOR MAINTENANCE OF A DEEP DRAFT CHANNEL IN MOBILE BAY AND THE UNACCEPTABLE SOCIAL, ECONOMIC AND ENVIRONMENTAL IMPACTS, THEN IT WOULD BE AN ACCEPTABLE ALTERNATIVE.

MOBILE, ALABAMA IS OUR MAJOR PORT, BUT THE INDIVIDUAL COMMUNITY NEEDS ARE NOT PLANNED FOR. THE CITIZEN OR TOURIST CANNOT SIT ON A PIER, WHARF AND WATCH THE MARITIME VESSELS GO BY. THEY CANNOT ENJOY THE BAY BREEZES AS WAS ONCE THE CASE MANY YEARS AGO. NO PLAN FOR AN ACCEPTABLE URBAN WATERFRONT PARK IS TAKING PLACE. RECREATIONAL CRAFT PLY OUR INLAND WATERWAYS AND WE HAVE NO ADEQUATE DOCKING FACILITIES IN ORDER THAT THEY MIGHT DOCK AND SPEND SOME TIME IN OUR BEAUTIFUL AND HISTORICAL CITY.

WE, THE TAXPAYER HAVE TO PAY OUR WAY. ITS PAST TIME FOR WATER-WAY USERS TO ACCEPT THEIR FINANCIAL RESPONSIBILITY AND PAY A USER FEE

OR FULL COST RECOVERY . IF THE COMMUNITY IS PLANNED FOR SUCH AS PROVIDING A NEEDED URBAN WATERFRONT PARK AND GIVEN "FULL VOICE" IN PRELIMINARY PLANNING, THEN WE WILL ACCEPT PART OF THE FINANCIAL RESPONSIBILITY.

MRS. MYRT JONES
Myrt Jones

Testimony prepared by
Mr Jerome Drummond
For
Senator James Abdor

And presented to the
Senate Subcommittee on
March 5, 1982 at Mobile,
Alabama

Senators:

My name is Jerome Drummond, and I am the Vice-President of Transportation for Drummond Coal Company, a wholly owned subsidiary of Drummond Company located in Jasper, Alabama.

The Drummond Coal Company was founded in 1935 by Heman Drummond with the operation of a small drift mine in Drummond Hollow. Since this time Drummond Coal Company has grown to its current position of importance through the aid of hard working, dedicated employees; efficient cost-effective management; and the avaliablity of great quantities of high grade coal in the central Alabama area. Drummond started out by serving the Birmingham, Alabama area with its coal needs and by 1968 Drummond had expanded this area to include Japan and beyond.

Today, Alabama is a major coal producing and exporting state. Drummond Coal Company is the largest surface coal exporter in the southeastern United States and one of the top twenty non-captive bituminous coal producers in the nation. Drummond serves metallurgical, utility, and specialty coal customers on four continents, from mines in six counties in north central Alabama.

The Warrior and Tombigbee River System runs through the heartland of Alabamas' coal fields. The ease of access to the waterway prompted

Drummond to locate most of its facilities by the waters edge. Due to the lack of rail facilities in the area water transportation has been heavily depended upon for the movement of coal to the Port of Mobile, for export. The rapid increase in demand for export coal prompted the State of Alabama to create and further develop its coal handling facility, located on McDuffie Island at Mobile, Alabama. This facility was built primarily for the receipt of coal via barge, due to the limited capacity of the rail system servicing the Port of Mobile area. Therefore, by mining high quality coal, and transporting it by an avaliable and efficient mode Drummond has been able to retain its competitive position in the world market.

Japan purchases a majority of our export coal and through their experience with different modes of inland transportation have found the barge lines to provide a more dependable product flow.

Since we first started exporting coal in 1968 at a rate of 200 thousand tons a year, 90%of the coal moved was by water. This percentage holds true today at an export level of 9 million ton per year, which includes company produced coal, forwarding agency for Jim Walters, and purchases of numerous other coal producers coal. We expect it to continue into 1984 when we will be exporting 10 million tons a year.

During the 1980-81 period the United States exported 90-100 million tons of coal. Approximately 25 million tons was transported by barge and more specifically roughly 5 million tons of the 25 million tons, moved by barge nationally, was moved from the Birmingham area, using the Warrior and Tombigbee River System. In 1982 we expect this figure to increase by 3 to 5 million tons, if current conditions do not worsen.

Drummond has contributed to reducing the current national trade deficit by being able to compete with other coal exporting nations in a successful manner. By handicaping the water transportation industry, and subsequently causing Drummond to seek out other forms of transportation, to get our coal to market, we will undoubtedly lose this competitive edge. Even if the waterways remain open through the collection of taxes imposed on those benefiting from the system I am afraid we will price ourselves right out of the market.

Drummond and its subsidiary companies employ approximately 5500 employees, of which one-third are directly involved with the mining and exporting of our coal. We fear that a loss of our competitive position could possibly lead to a reduction in the need for our product. This could lead to a reduction in our workforce, thus increasing unemployment in a state which is already in trouble.

We appeal to you to use prudence when deliberating on such a vital question as this. We do not feel that Congress has studied the impact of such a decision adequately. Upon reviewing the section 205 study, mandated by legislation in 1978 we feel, among other things, that the question of regional impact has not been addressed properly. We therefore urge you to consider the economic impact, both nationally and internationally, and to delay action on the present proposals set forth by the administration until a detailed and thorough study, of any final proposals can be completed and thoroughly analyzed. Then, and only then, should this country's long standing commitment to a federally constructed and maintained inland waterway system, based upon a strong national defense policy and improved regional development need be examined in a different light. To a great extent, this country's commitment to regional development through reconstruction of our inland waterway system has lead to Drummond's present position in the export coal market. The future of this country demands no less.

Gentlemen; I wish to thank you for conducting this hearing and allowing me to contribute the views of the Drummond Coal Company.

Statement of Lester E. Sutton
President, Dravo Mechling Corporation
Pittsburgh, Pennsylvania
Senate Environment & Public Works Committee
Mobile, Alabama
Hearings on S. 810
March 5, 1982

My name is Lester E. Sutton. I am President of Dravo Mechling Corporation, One Oliver Plaza, Pittsburgh, Pennsylvania, 15222.

I recognize that the purpose of this hearing is to help you better understand the effects of user charges on Alabama and the middle Gulf Coast area. My company does have a considerable interest in the survival of the waterway system in Alabama. In addition, the future of affiliated companies such as Southern Industries and Ryan-Walsh is directly linked to the viability of the inland waterway system.

Southern Industries, headquartered in Mobile, is active throughout the Gulf Coast states and employs more than 1,500 people. The company is one of the larger marine operators on the Gulf Coast, owning and operating a fleet of 150 vessels including dredges, barges, towboats, tugs and support craft. A subsidiary, Radcliff Materials, dredges oyster and clam shell from Mobile Bay and is one of the area's principal suppliers of construction aggregate products. The economics of these operations, and those basic industries which these operations support, would be severely impacted by user taxes.

Ryan-Walsh, also headquartered here, is the oldest stevedore on the Gulf Coast. In recent years, Ryan-Walsh has worked roughly 40% of the total stevedoring man-hours in the Port of

Mobile. A Ryan-Walsh subsidiary, Southern Marine Service, operates the largest barge fleeting and positioning service in the Port. Traditionally a general cargo port, Mobile has been developing strongly in recent years as a bulk and barge port as well and there has been expansion of grain elevator capacity and coal handling facilities. Ryan-Walsh and Southern Industries have played a key role in that expansion. The question is whether that expansion will continue.

The two companies are suppliers and/or customers of most of those giving testimony here today.

My function today is to demonstrate that the effects of user charges on the economy of Alabama are not only dependent upon what happens on the Tenn-Tom or the Alabama, or the Intercoastal Waterway, but that any user charge legislation must consider the entire inland waterway system as a system. What we should do is consider our entire transportation system as a system, including water, rail, truck, air and pipeline, but perhaps that is outside the scope of this hearing.

Recent shipments by our company have included specialty ores from Theodore to Catoosa. Chicago and Pittsburgh. We've handled scrap iron from Mobile to Baytown. One of our larger customers, Stauffer, ships liquid chemicals in our barges throughout the inland river system, including Memphis and Calvert City. We've carried pig iron, sheet steel and specialty ores to Port Birmingham, brought machinery into Mobile. We've brought twenty-nine barge loads of equipment from Pittsburgh, Catoosa, Houston and Owensboro to help build the Chevron refinery in neighboring Pascagoula.

We helped one of our customers, Armco, Inc., develop their study information which led to their decision to build a pipe finishing mill at Gulfport. This facility will finish pipe which will be produced at Ashland, Kentucky. This project could not and would not have been undertaken without a viable waterway system.

We move substantial quantities of corn from Illinois and soybeans from Ohio and Indiana to Pascagoula. Potash is transported from Houston. A map with the origins and destinations where my company, alone, handled shipments into or out of this area during the last year is attached.

We also move bagged rice from Greenville, Mississippi to Mobile and Pascagoula for export. This is a fascinating story and demonstrates how far off the mark bureaucrats can be when they make statements like, ". . ., the two groups that do sustain noticeable negative effects are barge operators and grain interests. These effects are not large enough in total, however, to translate into any extensive effects on regional economies."[1]

In 1978, a group of entrepreneurs built a rice mill in Greenville, Mississippi at a cost of $40 million. This is one of the most modern rice mills in the world. Its construction bolstered the farm economy throughout a wide area of Mississippi, Arkansas and Louisiana. It also provided 150 direct jobs in Greenville. The economics of this plant are based primarily on low cost water transportation. The rice industry is currently experiencing severe competition from Indonesia and Thailand. Last week, this customer came to us and said that unless he could make a substantial reduction in his selling price, the mill would have to be closed. Although our business is in its worst financial bind ever, we agreed to a 20% reduction in our freight rate from Greenville to Mobile and Pascagoula to help this customer stay in the market and keep his plant operating. If we had a high level of user charges, we could not have done this and this business would be lost to foreign competition.

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[1] Inland Waterway User Taxes and Charges, U.S. Department of Transportation, February, 1982, Page 9.

I understood his dilemma because time after time in my business during the last six months, I've had to make decisions to reduce our rates to the breakeven point to simply cover overhead and avoid the lay-off of highly skilled personnel.

In the ten years ending in 1978, private investors have risked $66.2 billion of their money in investments along the inland waterway system. If high user charges are imposed, many of these entrepreneurs will lose that money. What message is the government really trying to give these investors? I believe that message should be one of encouraging investment, not penalizing it by changing the rules.

That story illustrates one of the key points I want to make today. We must not lose sight of the central purpose of President Reagan's economic program. The central purpose of the President's program, as I understand it, is to revitalize this country's economy. I agree with that goal. I know that you gentlemen support that goal. You take seriously your responsibility to add your knowledge and your expertise as well as the facts gathered at hearings like this to assist the President in modifying and fine-tuning his program. I know that you also want the goal of revitalizing the economy to be achieved.

I would like to point out that the theory providing government support only to weak or failing businesses and withdrawing government support from efficient and successful ventures is U.S. economic theory. Japan used quite a different theory to achieve their economic revitalization. I am as tired as anyone of hearing our business practices compared to the Japanese. Their success in the world markets during the last ten years as contrasted to ours, coupled with the dramatic difference in attitudes towards government business relationships in the two countries, is too significant to ignore.

I believe that rational, objective, efficient government support of inland waterways would clearly speed up the economic recovery of the U.S. I also believe that precipitious and/or irrational changes in transportation costs and cost relationships will have a significant negative effect on that recovery.

In his testimony before this committee, Secretary Lewis said he could see no reason to support the inland waterway system "unless it serves truly overriding national objectives." Gentlemen, I submit that economic recovery is a truly overriding national objective.

I want to call attention to some of the flaws in the Section 205 Inland Waterway User Taxes and Charges Study. There are too many unknowns about this study to comment fully. The underlying contractors reports have not been released. When they are, they need to be studied thoroughly. Questions as simple as to what extent the data gathered by the contractors was actually used and supported the conclusions reached, need to be answered.

One simple observation is that although Congress asked for objective answers, the study was conducted by a department and supervised by people who strongly supported full cost recovery from the very beginning.

Another observation is that it is impossible to measure economic impacts of waterway user charges when the target moves as fast and as substantially as it has in the last twelve months. The Administration alone officially submitted four widely divergent plans whose impacts, particularly on the Alabama area, were dramatically different. Keep in mind, as others have testified here today, segment tolls would be devastating to Alabama waterways. The history of the formally advanced proposals for recovery of Corps of Engineers expenditures is as follows.

February 18, 1981 - President Reagan's first budget message promises new waterway user charge legislation: "Under this proposal, user fees will increase from 6¢ per gallon to about 30¢ per gallon in 1983 to collect the $325 million the Government will spend on the operation and maintenance of the waterways." Effective date: October 1, 1982.

March 25, 1981 - Draft legislation (introduced as H.R. 2962 and S. 810) directs the Secretary of the Army to establish a system of user charges which, together with revenues from the existing waterway fuel tax, will be sufficient to recover — on a segment-by-segment basis — full shallow-draft navigation O&M costs as well as the cost of new navigation projects (plus interest) amortized over a period not to exceed 50 years. Effective date: October 1, 1981.

July 15, 1981 - Revised legislation (introduced as H.R. 4846 and Senate Amendment No. 637) deletes most East and West Coast rivers from coverage, increased the present fuel tax to 15¢ a gallon (with an escalation provision for future years) and authorizes the Secretary of the Army to formulate user fees on a segmentized basis to recover remaining Federal navigation expenditures, including both O&M and amortized construction costs. Effective date: October 1, 1981.

February 10, 1982 - Transportation Secretary Drew Lewis testifies that the Administration will soon propose a system of ton-mile taxes to recover 100 percent of O&M costs on a segmentized basis. Effective date: October 1, 1982.

Confusion continued right up to and through your hearings on February 10. Sometime between February 5 and February 10, major shifts were made in the type of taxes to be collected, from fuel taxes to ton-mile taxes and from segmented tolls to uniform tolls.

You may recall Senator Bentson's exchange with Secretary Lewis and Dick Walsh and may have determined whether or not commercial transportation will be expected to pick up the costs for other users beneficiaries of the waterways, but I could not. It was obvious, however, that they disagreed. And I would be interested in seeing their written answer.

Confusion about the impacts of the study continued into this week as Dick Walsh has now said he will ask his subcontractors to try to assess the impacts of the latest proposal.

What is causing all this confusion and flailing around? There simply are not enough facts available at this time to make a rational decision about user charges.

The beneficiaries of Corps of Engineers expenditures have not been identified and quantified. Peat, Marwick & Mitchell is conducting a study with the help of former Corps employees to attempt to answer this question. But this is not an easy question to answer. It never made much difference before. The Corps didn't need a system to keep track of who benefited. More important is the fact that new uses for these now tamed rivers developed. That was an obvious and desirable effect of this public investment and furthered the national interest.

In early February, when Dick Walsh of DOT was telling your committee that all the costs of the locks and dams should be charged to navigation because, "The commercial navigation system, and it includes locks and dams, was put there for the benefit of commercial navigation", we in Western Pennsylvania were getting a vivid demonstration of the multiple uses of one of our waterways.

An accident at Maxwell Dam on the Monongahela River caused the loss of pool water level which forced factories, schools, coal mines and power plants to close. Mr. Walsh's 'for navigation only story' does not sell well in Western Pennsylvania.

The question of equity between waterway transportation and its direct competition still has not been answered. The 205 Study said it wasn't necessary and if it were done, railroad retirement benefits should not be included. Dr. Rivlin did include rail retirement benefits, but did not allocate any Corps costs to other beneficiaries. Neither included the massive tax breaks given the railroads in last year's tax bill. In their switch of accounting systems, the railroads were allowed to write off on an accelerated basis track improvements going back as far as 100 years. This change, coupled with the ability to sell these tax credits, could result in windfall profits of up to $7 billion for the railroad industry over the next few years.

The point we supporters of the waterways have apparently been unable to make clear is that competition in freight transportation is good for the national economy. Competition has been good for the health of our industry. Waterways can be used by everyone. Railroads can only be used by the private interest who owns the track. Railroads have consistently demonstrated that without competition, they will abuse their monopoly power. It is important that this competitive balance not be upset.

Freight transportation modes compete primarily on the basis of price. Anything that affects the price I can charge my customer affects my ability to compete. This includes tax breaks for my competition, the government paying retirement costs for his employees or charging me a user fee to pay the salary of a Corps employee who is designing a bridge for El Salvador.

Another technique used by supporters of high user charges is to trivialize the impact by saying that the tax equals only 1% or 5% of the total value of the goods shipped. Gentlemen, the decision on selling or not selling that rice I talked about earlier or the decision to sell steel pipe produced in Pittsburgh against pipe produced in Japan is not based on the selling price, but on the producer's margin. Any measurement of effect of taxes on business must be measured against margin, not selling price. If additional taxes are greater than a business margin's, that business will not last long.

In the long run, these new taxes must be weighed against after-tax profits because that is all we have left to reinvest to get the economy moving again. Oh yes, we can borrow money, but the banker quickly takes us back to that profit measure with standards like interest, coverage, etc. Any additional tax on American business which is competing with foreign businesses like most of those using the waterways, must be measured against margin or net profit, not against selling price.

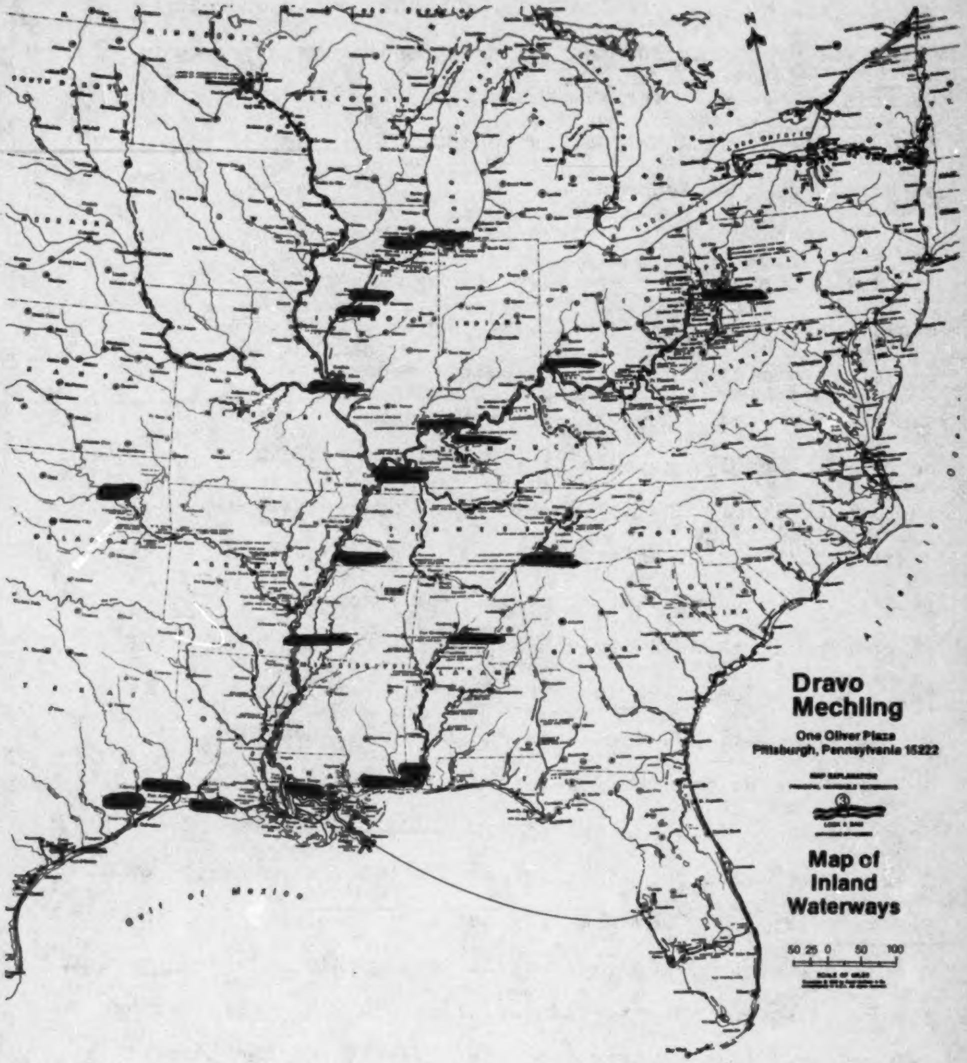
Another obvious case of making the facts fit the desired conclusion was that the 205 Study assumed no new waterway construction or major rehabilitation expenditures before the year 2000. The study also predicts a 50% growth in traffic over the same period. The National Waterways Study recommended an investment in waterway improvements of $6.5 billion by the year 2003. The same subcontractor was used for both studies. We understand much of the input data was the same. This is one of the reasons it is so important for us to get the underlying data from the 205 Study and be given time to analyze it. If the same facts could be used to produce such different conclusions, you deserve some realistic evaluations of what is really going on.

Perhaps the most blatant and serious problem with the 205 Study was that it purported to measure the effects of increased taxes on transportation and the economy of regions. The study completely ignored additional taxes to be placed on the same traffic at the same time. The same department conducting the study was proposing substantial additional taxes to recover Coast Guard fees at the time this study was being conducted. The effects of pending legislation for user fees for ports and harbors were also ignored.

In summary, the effects of user charges on the economy of Alabama and the nation are going to be much greater than Administration witnesses would like you to believe. Much additional information is needed before a user waterway charge can be developed which will limit the damage it does do to the economy. Finally, government industry cooperation, coordination and support could develop an efficient competitive transportation system which would assist in revitalizing the economy. That revitalized economy would contribute far more toward the support of government than any system of regressive fees which will cause this industry to decline, forcing ever increasing rates of tax and continued declining industry revenues.

Government industry coordination to continue this efficient low cost transportation system can prove the supply side theory, i.e., lower taxes results in greater total tax revenues, or in the reverse, increased user charges will result in less revenue. I'm sure a clear demonstration that the supply side economic theory works in freight transportation would not only advance the interests of this country, but the interests of the current Administration.

I thank you for allowing me to testify here today to share my concerns on such a vital issue.


Dravo
Mechling
One Oliver Plaza
Pittsburgh, Pennsylvania 15222
Map of
Inland
Waterways
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TESTIMONY OF IDEAL BASIC INDUSTRIES, INC. BEFORE THE SUBCOMMITTEE ON WATER RESOURCES OF THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, MOBILE, ALABAMA, MARCH 5, 1982

Chairman Abdnor and Members of the Senate Subcommittee on Water Resources:

I am John C. Thomason, Director of Governmental Affairs for Ideal Basic Industries, a Colorado Corporation engaged in the production and marketing of cement and potash. Approximately one-third of our more than one billion dollar asset base is invested in two recently completed Alabama projects linked by the inland waterway system. Our interest in the deliberations of your subcommittee and the ultimate resolution of pending cost recovery issues is, therefore, unmistakenly great.

By way of background, Ideal's new Alabama facilities consist of a $284 million, 1,500,000 ton-per-year, cement plant located in the Theodore Industrial Park (on the inland route of the Theodore Ship Channel, Mobile Harbor, some 12 miles south of Mobile) and a $29 million supportive limestone quarry in Monroe County (Marshall's Bluff, Mile 54, the Alabama River).

The water link between Ideal's quarry and plant encompasses a distance of some 114 miles and includes segments of the Alabama and Mobile Rivers and Mobile Bay, approximately as follows: Alabama River, 53 miles; Mobile River, 45 miles; and, Mobile Bay, 16 miles. Some 3,000,000 annual tons of limestone will be required in the operation of Ideal's Theodore plant at designed capacity and, as a matter of interest, this tonnage will more than double previously prevailing traffic on the lower Alabama River.

Ideal's investments have had a very positive economic impact on the south Alabama economy. For instance, during the construction phase, our two projects generated more than seven million manhours of employment and a payroll of close to $70 million. Our regional operational impact is likewise significant and, for 1982, includes a combined plant and quarry workforce of 221 persons whose wages and benefits will approximate $7.7 million. Substantial employment and new payrolls have also been created in other industries which support Ideal's operations, particularly suppliers engaged in the marine transportation of inbound raw materials and outbound finished products.

These major investments were undertaken by Ideal in good faith and with the belief that the federal government's nearly two century old policy of providing for a toll free inland waterway system would continue unchanged in the future. We were somewhat disturbed in 1978 when a low-level waterways fuel tax was instituted although the impact of this on the economic viability of Ideal's Alabama venture was modest and, at the time, the user charge issue appeared to be resolved until at least 1985.

Yet, we are now informed that OMB proposes to eliminate FY'83 operations and maintenance funding for inland waterways generating less than five million tons of annual commerce which, if adopted, would close the Alabama-Coosa River system to commercial navigation; and, also, that the Administration and the Congress are considering dramatically increased user fees, in several differing but full federal cost recovery versions, as the alternative to future federal funding for operation, maintenance and new construction on inland waterways.

While we generally support the President and the Congress in their goals of budget reform, we must also point out that high-level user fees, if enacted, would significantly alter the economic feasibility of transporting large volume, low value commodities by water. This is true because such a water resource policy would negate the value so often added through barge transportation which, for years, has been a major force in industrial development. Ideal's Alabama operations offer a good case in point.

On the average, almost two tons of limestone, clay and other relatively low value raw materials must be assembled to manufacture a single ton of cement. Substantial, economically recoverable deposits of these materials are increasingly found at great distances from major cement-consuming markets and their real value as a process material is not realized until these products are transported to the point of manufacture.

In example, the limestone reserves underlying Ideal's Monroe County property might customarily be valued at a mere 10 to 15 cents per ton. When the overburden is removed and the limestone is quarried and stockpiled, its value is increased several fold. But the true value of the material does not come about until it is barged, unloaded and processed into cement at the Theodore plant, again, some 114 miles downriver. The meaningful difference between limestone at dockside in Monroe County and the calcium carbonate component for cement at our Theodore plant is whether the cost of moving the product to the point of manufacture exceeds its value at destination.

Your subcommittee has asked for specific dollar examples of the impact of proposed navigation cost recovery legislation. So as to not disclose company confidential information, I will simply offer that the imposition of a fuel tax in the 34 to 33 cents per gallon range or a 1.5 mills per ton-mile levy would, in effect, more than double our in-place cost of limestone. This is not only ill-advised, but ill-timed, as it would only further burden a basic construction product trying to weather a rough recessionary storm.

I will be glad to respond to your questions and will close on this thought which has long been a moving force of regional economies. The less that water transportation adds, the more valuable it is. Anything which reduces the cost of transportation adds to the industrial strength of the area and provides impetus for further industrial development. Conversely, anything which increases the cost of transportation, saps the industrial vitality of the region it should benefit.

Before The
Senate Environment and Public Works
Subcommittee on Water Resources

"Inland Waterway Development
and the Effect of User Fees"
Hearing Chaired by Senator James Abdnor
in Mobile, Alabama, March 5, 1982

Statement
of
N. J. Barchie, Jr.
Vice President & General Manager
Warrior & Gulf Navigation Company

My name is Nicholas J. Barchie, Jr., and I am Vice President & General Manager of Warrior & Gulf Navigation Company, with headquarters located in Chickasaw, Alabama. I personally have been in a managerial position in the waterway industry for the past 19 years, the last 9 of which have been with Warrior & Gulf Navigation Company in the Mobile area.

Warrior & Gulf Navigation Company is a shallow-draft water transportation company which currently operates 21, 1,800 horsepower towboats, and more than 300 barges. Primarily, our transportation is performed on the Black Warrior and Tombigbee River System, but we do provide services from the Mobile area through the intracoastal canal to Florida on the east and Texas on the west. Products transported include various ores and scrap metals for use in the steel making industry, as well as the transportation of finished steel products for distribution throughout the southern part of the country. But, our heaviest volume of shipments is coal, both for export and for domestic consumption, originating in the heartland of the state.

It is important for us to realize the negative effect which any substantial increases in the transportation cost of these cargoes will have on shippers and consumers. For example, the already struggling steel industry and the export coal producers would be further disadvantaged in their competition with foriegn producers. Both industrial and residential consumers of electricity will bear the burden of the higher cost of transporting coal to domestic utilities.

Maintenance of our waterways in a navigable condition is essential to the fulfillment of our mission as a water carrier. The currently proposed cutbacks in the budget of the Corps of Engineers show that the movement by the Federal Government to abdicate its responsibilities in this area has already begun. The proposed reduction of $800,000 for the operating and maintenance budget for Alabama waterways for fiscal year 1983 is more crippling than it appears, since the continually deteriorating lock and dam structures on those waterways will require more, and not less, maintenance.

During the past five years, the Black Warrior & Tombigbee Rivers have had outages that equate to approximately 20 per cent of the total navigation time available. Not long ago, the shippers and carriers on that system were led to believe that these problems would be improved. Obviously, the cutback in services by the Corps will ensure that navigability interruptions will increase instead. These service cuts show that the administration has been misled into a willingness to turn its back on one of our nation's greatest resources -- its waterways. The waterway user charge proposals demonstrate the same attitude. If implemented, these proposals would surely destroy the economic viability of many waterways and of the communities and industries which located and invested near those waterways in the belief that the Federal Government would not abandon its responsibility to maintain them. It would be irresponsible for the Congress to adopt any such proposal without an adequate analysis of its net effect on the national economy and on all identifiable beneficiaries of the waterway system.

Public Law 95-502, passed in 1978, imposed a user charge on the waterways for the first time in the history of this nation. Section 205 of that law also mandated a comprehensive analysis of the impact of user charges for submission to Congress. Unfortunately, the study which was produced ignored the mandate of Section 205 and is fatally flawed in so many respects that they could not be adequately addressed at a hearing such as this one. But even if a thorough analysis of the impact of waterway user charges had been completed, its conclusions would be unreliable to the extent that it ignored the combined impact of all user charges, including those for ports and the Coast Guard now being sought for deep-draft ports and for recovery of Coast Guard expenditures.

The budget cutbacks and the user charge proposals are offered in the name of deficit reduction or budget balancing, but they really represent the potential abandonment of a national asset in which the nation has a substantial capital investment. That investment pays off in tax revenues to the federal treasury from the economic activity which the system fosters in areas which would otherwise stagnate. It's difficult to understand how favorable consideration can be given to the Administration's current inland waterway user charge proposals when such charges would appear to have a counter-productive effect.

Compounding the problem for the inland water industry is the issue of subsidization or economic benefits provided to all modes of transportation. Again, there has been much said by both the rail industry and the water transportation industry about the benefits and that equitable treatment be given to the water transportation industry. Continuance of unrecognized subsidization will only continue the practice of using uneconomical forms of transportation when better alternatives might be available.

Therefore, I urge this Sub-Committee to reject the present proposals set forth by the Administration until these issues can be successfully defined.

Thank you.

Before The
Senate Environment and Public Works
Subcommittee on Water Resources

"Inland Waterway Development
and the Effect of User Fees"
Hearing Chaired by Senator James Abdnor
in Mobile, Alabama, March 5, 1982

Statement
of
James C. Ludwig
On Behalf of
Alabama Power Company
Georgia Power Company
Gulf Power Company
Mississippi Power Company
and
Southern Company Services, Inc.

My name is James C. Ludwig. I am employed as Vice President, Fuel for Southern Company Services, Inc., located in Birmingham, Alabama. Southern Company Services, Inc., as an affiliate of the Southern electric system, provides various services to Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company, including substantial responsibility in fuel and fuel transportation matters.

The Southern electric system received in excess of 38 million tons of coal in 1981. Of this total, over 11.5 million tons moved via barge for at least a portion of the delivery route to system generating plants. Six of our facilities are located on navigable waterways and are either entirely or primarily dependent on the waterways for their coal delivery.

There are a number of concerns about the proposed additional waterway "User Fees." Any increase of fees or taxes on the transportation of coal to electric utilities will result in the increased cost of electric power to the consuming public. The Southern electric system currently serves 2,600,000 customers, therefore the effect on household electric bills and the cost of goods and services in the Southeast is an important consideration.

Another major concern to our service area is the cumulative effect of reduced operating and maintenance funds available to the Corps of Engineers coupled with increased transportation costs due to user fees. Some currently navigable waterways will become either unavailable or unreliable to shippers due to these factors. The resultant disruption in manufacturing, marketing, and product delivery involving facilities currently dependent on waterways may be substantial. Alternate transportation routes including roads may be adversely impacted by added traffic density. Industries such as coal may become less competitive with sources outside the region due to added transportation costs and decreased waterway availability/reliability.

All of the above causes us to emphasize the need for detailed analysis on the impact of User Fees and budgetary constraints on waterway operations and maintenance prior to implementation. Various press releases indicate that the Federal Government has not made adequate studies and analyses of this issue, but they nevertheless appear prepared to proceed regardless of the impact. We strongly recommend that more in depth analyses be completed before implementation of User Fees as now proposed. If the Federal Government is not prepared to perform such analyses, legislative action should be postponed until the various regional and state studies are completed.

Thank you for the opportunity of presenting testimony on this important issue.

JCL/lh
3/3/82

ALABAMA GRAIN DEALERS
ASSOCIATION, INC.
P. O. Box 3336
1445 Federal Drive
Montgomery, Alabama 36193

March 4, 1982

Senator James Abdnor, Chairman
Subcommittee on Water Resources
Washington, D.C. 30510

Dear Senator Abdnor

The administration's proposed 100% cost recovery of inland waterways user fees in the form of increased fuel taxes to the barge and towing industry will undoubtedly be passed from the barge industry to the grain trade. Grain dealers operate on very thin margins as it is. They depend on high volume to generate profits. Therefore, the grain trade has no alternative except to pass it to the farmer. When the proposed increase reaches the 100% recovery level, we believe the probable impact would mean 5-6¢ per bushel reduction in the price farmers will receive for their grain.

In 1981 Alabama's total wheat production was 24,860,000 bushels. We estimate that approximately 15,000,000 bushels moved to the export market on the inland waterway system. If you reduce income by 6¢ on 15,000,000 bushels, the Alabama farmer will receive $900,000 less for his wheat.

In 1981 Alabama's total soybean production was 47,150,000 bushels. We estimate that approximately 30,000,000 bushels of soybeans and soybean products moved to the export market on the inland waterway system. If you reduce income by 6¢ on 30,000,000 bushels, the Alabama farmer will receive $1,800,000 less for his soybeans.

The Tennessee River is used to move grain into Alabama from the midwest. We estimate that 5-10 million bushels of corn and that 5-10 million bushels of soybeans are shipped in each year. The 6¢ applied to these figures will cost the poultry, cattle and hog farmer $300,000 to $600,000 due to increased feed prices.

We appreciate your concern in this matter and thank you for letting us share our projections with you.

Sincerely,
ALABAMA GRAIN DEALERS ASSOCIATION, INC.

F.G.Brooks, President

TLH:pjs

THE ECONOMIC IMPACT OF WATERWAY USER FEES PROPOSED BY SENATE BILL 810 ON THE AGRICULTURAL ECONOMY OF ALABAMA[1]

Soybean production in Alabama increased 300% over the past decade, due largely to expanded export markets and development of local market facilities located on inland waterways. Soybean production is projected to reach 73 million bushels by 1999.[2]

More than one-half of the production will be in the Tennessee River and Tennessee-Tombigbee River corridors tributary to the Port of Mobile. Another 25 percent of the production will be in areas served by Alabama's inland waterways tributary to the Port of Mobile. Approximately 75 percent of the production or 55 million bushels of soybeans could be moved into export markets by water transportation.

Soybeans account for more than one-third of U.S. agricultural exports and if they are to remain competitive in world markets, additional domestic transportation costs will be passed back to the farmer in form of a lower price. This would have a negative impact on the continued expansion of Alabama's agricultural economy.

Alabama has two soybean processing plants located on the Tennessee River that would incur additional costs for receiving soybeans and shipping products if waterway user fees are imposed. These two plants have an annual capacity of approximately 40 million bushels that could subjected to lower prices to farmers.

A total of 95 million bushels of soybeans could be subjected to lower farm prices to absorb additional transportation costs if the proposed waterway user fees are imposed.

Preliminary estimates by individuals in the grain industry indicate that the proposed user fees would result in over five cents per bushel additional costs that would be reflected in lower prices to farmers. The net effect would be about $5 million reduction in farm income. Applying an economic multiplier of 2.7 the negative impact of the waterway user fee on Alabama's economy would be $12.8 million

Another consideration would be the impact of waterway user fees on feed grains received in Alabama from surplus producing North Central States. Alabama is a feed grain deficit state, projected to utilize 106 million bushels of corn by the year 2000 with about 72 million bushels imported from surplus producing states. The imposition of waterway user fees could result in a $3.6 million reduction in farm income and $9.7 million in income to the general economy. The loss would be absorbed by either the primary user of grain in Alabama or grain farmers of the North Central States.

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[1] Prepared by James R. Hurst for presentation as testimony to U.S. Senate Sub-Committee on Water Resources at Mobile, Alabama, March 5, 1982.

[2] Lazarus, Sheryl S., L.D. Hill and S.R. Thompson, Grain Production and Consumption...A.E.S., Bul. 763, University of Illinois at Urbana-Champaign, November, 1980.

In my opinion the imposition of waterway user fee of the magnitude being considered would have a negative economic impact on Alabama's agriculture and general economy of more than $20 million annually in the next 20 years.

It appears that the national interest would be better served by not placing additional economic burdens in the form of waterway user fees on agriculture which is experiencing extreme economic difficulties as a result of expanded production in the past decade. The increased productivity of agriculture has resulted in consistent foreign trade surplus (in contrast to consistent trade deficits in the non-agricultural sectors of the economy) and provided the most effective resistance of inflation in recent years.

The proposed waterway user fees would be particularly restrictive to the further development of the Tennessee-Tombigbee Waterway, the Port of Mobile, agriculture and industries of the entire Southeastern United States if the fees are structured to recover costs of specified systems.

Substantial amounts of public and private investment capital has been expended and more committed based on completion of the Tennessee-Tombigbee waterway. These investments were made primarily due to confidence that the Tennessee Tombigbee would be developed and operated on the same equitable basis that was applied to the Mississippi and Ohio River systems that have served Mid-America for many years.

Continuity of traditional means of funding waterways would best serve the nations interest in my opinion.

Senator Abdnor, Senator Denton and Members of Senate Subcommittee on Environment and Public Works on Water Resources.

McMillan Lane, Alabama Commissioner of Agriculture and Industries, regrets he is unable to appear before this Committee today because of a prior commitment. Commissioner Lane asked me to testify in his behalf to voice his concern on the effect waterway user's fees would have on Alabama farmers. It is a pleasure for me to have the opportunity to give testimony before this Committee on Senate Bill 810 regarding Waterway User's Fees.

The Alabama Department of Agriculture and Industries, Shipping Point Inspection Division, already has had some experience with a Federal User's Fee. This division began providing grain inspection service to the export elevator in Mobile, Alabama, during the early 1950's. This service was extended to include interior elevators a couple of years later.

In 1976, the Alabama Department of Agriculture and Industries was designated and delegated by USDA's Federal Grain Inspection Service (FGIS) as the official agency to perform grain inspection and weighing. This included inland elevators as well as the export elevator in Mobile, Alabama. Although user's fees were being collected by the state, they were minimal and designed to cover only the state's cost for operating the program.

In 1981, Senate Bill 949 was enacted. It amended the U.S. Grain Standards Act to provide through user's fees to cover the cost of federal supervision of the program. Initially it would have resulted in an increase of 30-35% in user's fees collected by the states. However, it was later reduced to 12-15%. These additional costs assessed by FGIS have to be passed back to our farmers.

Testimony given by James H. Burnette, Alabama Department of Agriculture & Industries on Senate Bill 810 regarding Inland Waterway Development and the Effect of User's Fees.

For example, the first month the federal user's fee was in effect--October, 1981--the Alabama Department of Agriculture and Industries had to pay the federal government $42,000.00 for supervising our grain inspection program. In the four months the user's fee has been in effect, we have paid the federal government $95,000.00 in spite of the reduction. The Shipping Point Inspection Division, within the Alabama Department of Agriculture and Industries, is completely self-supporting. We receive no federal or state funds. All costs of operating, including user's fees, must be passed on to our farmers and other users of our services.

Last fiscal year, the Shipping Point Inspection Division made the following grain inspections:

Trucks	57,655	
Railcars	10,777	
Barges(In or Out)	38,144,825	Bushels
Ships (Out)	62,041,664	Bushels
Submitted Samples	38,531	
Not Standardized Grain (Screenings)	31,195,898	Pounds

Commodities inspected include soybeans, corn, wheat, oats, sorghum and barley.

Last fiscal year, before the user's fee was in effect, we billed $1,270,000.00 for grain inspection fees. If we billed the same amount this fiscal year, we could expect the user's fee to be an additional $152,000.00 to be paid by our farmers.

In my opinion, any type of user's fee on agricultural commodities, whether applied to inspection services or to waterway usage, will be passed on to the producer. Therefore, we oppose any legislation that would increase costs to our farmers.

Alabama Electric Cooperative, Inc.
POST OFFICE BOX 550
Andalusia, Alabama 36420

March 4, 1982

Honorable James Abdnor, Chairman
Senate Environment & Public Works
Subcommittee on Water Resources
United States Senate
Washington, D. C. 20510

Dear Senator Abdnor:

Alabama Electric Cooperative, Inc. (AEC) submits the following comments on "Inland Waterway Development and the effect of User Fees" currently being considered by Congress.

Alabama Electric Cooperative, Inc. is a generation and transmission electric cooperative that supplies wholesale power to eighteen distribution cooperatives, four municipalities, and two industries in South Alabama and Northwest Florida. These distribution cooperatives and municipalities serve approximately one-half million consumers in the sparsely populated area. Due to the lack of population density in their service area, the costs associated with the distribution of electric energy are substantially greater than in the more heavily populated urban areas of the country. Accordingly, these cooperatives are nonprofit, consumer-owned entities, operating on very slim margins. Thus, it can be readily preceived that anything significantly affecting the cost of generation, transmission or distribution of electric energy is of profound interest and concern to AEC and its member systems.

Presently, AEC has two coal-fired generating plants. The Tombigbee Plant is located near Jackson, Alabama on the Tombigbee River and Southern Railroad and has barge and rail unloading facilities. The McWilliams Plant, a small older plant, is located at Gantt, Alabama on the Conecuh River and Southern Railroad. Unfortunately, the Conecuh River is not navigable and the McWilliams' Plant has only rail service. Recently the Southern Railway System has advised they plan to file with the ICC for permission to abandon the tracks that serve the McWilliams Power Plant.

In the 1960's the first 75 MW unit was installed at the Tombigbee Plant. The average burn for this unit was approximately 200,000 tons of coal per year. Again in the 1970's the Tombigbee Plant site was selected for the installation of two 235 MW coal fired units. This is AEC's largest generating plant. The estimated burn for the Tombigbee Plant is 968,000 tons in 1982, 936,000 tons in 1983, 986,000 tons in 1984 and just over a million tons in 1985-1989.

In addition to these facilities, a site has been selected in Choctaw County, Alabama for an additional 1600 MW of coal-fired capacity. This site is located on the Tombigbee River and one of the major factors in the selection of this site was the availability of water transportation.

It is estimated that this plant will burn approximately 2.8 million tons of coal per year. In addition to the coal that will be required it is estimated that 233,000 tons per year of limestone will be needed in conjunction with the sulfur removal equipment (scrubbers). All or a major portion of the coal and limestone that will be used at this new generating plant will possibly be transported by barge on the Warrior/Tombigbee Waterway.

A power requirement study has recently been completed and is being reviewed to determine when the new generation will be required. The best estimate at this time is that it will be needed sometime in the early 1990's.

One of the prime reasons for locating the first unit on the Tombigbee River was the availability of water transportation. Again in the 1970's the availability of water transportation was a prime reason for selecting this site for the two 235 MW units. The Warrior/Tombigbee River System provided a means of shipping that is both energy efficient and cost effective in transporting coal to produce energy for the electric consumers in AEC's service area.

In an effort to maintain its cost of service as low as possible, AEC recently completed the renovation of the barge unloader and purchased a new dredge for the Tombigbee Plant. This was at a cost of approximately 1.4 million dollars. The upgrading of the barge unloader and the new dredge will enable AEC to increase the amount of coal moved via the Warrior/Tombigbee River System from approximately 225,000 tons per year to approximately 500,000 tons per year.

AEC's 1981 fuel cost was approximately 28 million dollars of which approximately 5 million dollars was transportation cost. The 28 million dollars represented 23% of AEC's operating cost in 1981 with transportation being 4%.

The contract with the towing company that furnishes barge transportion for AEC provides for any increase in the waterway users tax to be passed through to AEC.

AEC is a non-profit cooperative and if increased waterway users taxes are imposed by the Congress AEC will have no choice but to pass the cost on through to its members, who in turn will have to pass them on to their consumer/members. Many of the consumer/members live in sparsely populated areas and are already faced with higher power cost than people who live in the more populated areas of the country.

The Tombigbee Plant is located at mile point 89 on the Tombigbee River which is below the last lock and dam on the river. As a result the plant site is subject to periods of extreme high water during the spring and extreme low water in late summer and fall. The effect of the high and low river elevations is to limit the time that coal can be received by barge to approximately ten months out of the year.

If reductions are made in the operating budget for the Warrior/Tombigbee River System this will possibly cause even further reductions in the time the system will be available for barge traffic to AEC's Tombigbee Plant. This will force AEC to use the more expensive rail transportation which in turn will increase the cost of electrical service to the consumer.

AEC appreciates the opportunity to convey its concerns on inland waterway development and current cost recovery proposals being considered by Congress.

Very truly yours,

ALABAMA ELECTRIC COOPERATIVE, INC.

Charles R Lowman

Charles R. Lowman
General Manager

CRL:elf

Statement To:
Senate Environment & Public Works Committee
Mobile, Alabama
Hearings on S. 810
March 5, 1982

Ryan-Walsh Stevedoring has made its living on the Mobile Riverfront since 1865. Between our offices and the river runs the main line of the L & N Railroad, and we make much use of rail transportation in all of our operations, particularly at the New Orleans Bulk Terminal where coal comes from the Illinois Basin on the I.C.G. Railroad for export and is loaded by us on ocean going vessels. We operate in Wilmington, North Carolina bringing in iron ore through a rock channel (through which we had to dredge a passage and pay for it with our own and our customers money). We barge the ore a hundred miles through the Atlantic Intracoastal Waterway to Georgetown, South Carolina. We operate the ammunition depot for the Army at Sunny Point, North Carolina, and begin operating in Charleston, South Carolina (shortly) on a U.S. Army contract. We operate in Panama City and Pensacola, Florida, in Pascagoula and Gulfport, Mississippi, New Orleans, Baton Rouge, Louisiana, and Beaumont, Texas. We stevedore a floating grain export facility at Convent, Louisiana, 100 miles above New Orleans, and operate an inland port at Lake Providence, Louisiana. We are now (since last year) a subsidiary of the Dravo Corporation of Pittsburgh, and a sister company, Southern Industries Corporation, operates boats and barges in bulk transportation on the rivers North of Mobile, westbound to Texas and in Florida. Dravo Mechling Corporation, a major barge carrier on the Mississippi River operates over 700 barges and 20 boats in bulk movements on the Mississippi and Ohio Rivers, and the Gulf Intracoastal Waterway.

Our purpose gentlemen, in addressing this hearing, is to shred through the maze of User Charge proposals - Segmented and cost recovery, etc. to say that we cannot understand any taxation (and that is what User Charges are) that benefits either the railroad, or barge, or truck industry, alone, at the expense of the other. If the Corps of Engineers budgets, the Coast Guard budgets, and the cost of developing Mobile and New Orleans as 55' channels, and general maintenance of harbors elsewhere has to be paid for by the so called User, lets just arrive at a Custom House fee on every ton of cargo that leaves or comes into this country, and pay for what we have to do to keep our waterway and shipping *industry viable with consequent benefit to the railroads and trucks.*

A segmented User Charge on the Bulk movements through Mobile paying for a small portion of Tenn Tom Construction (and total operating cost) paying for the Warrior River system maintenance to Birmingham, (iron ore, coal, grain and petroleum) maintaining the Alabama River (lime rock, grain and petroleum) and deepening Mobile's ship channel to 55' from 40', would be somewhere in the neighborhood of $2.00 per ton (broad brush). Add this $2.00 per ton to the cost of bulk cargo moving through the port, and you will drive the water segment of coal and grain and whatever else to the railroads in a minumum of 3 to 5 years. The railroads will then be forced to move through unbuilt facilities. This can further distort our present unbalanced transportation economic pattern. Building railroad equipment will require three times the capital cost per ton than if normal parallel expansion of rail and water is guided by proper legislation. If a segmented User Charge plan is developed throughout our transportation network, the most immediate result would be the disruption of normal maritime traffic flow to enhance the East Coast area (heavily rail oriented) to the detriment of the Gulf Coast and Midwest areas (heavily water oriented). Coal water costs now in Alabama - because coal has to be trucked to the rivers from mines, stockpiled, loaded on barges and barged 400 miles, unloaded and stockpiled again before loading out for export, we believe are about equal to rail costs. 2/3 of the coal mined in this country is moved by the railroads, but down here, barges move 83% of the coal coming to the McDuffie Terminal, and a similarly large portion to New Orleans. If you put an additional $2.00 User Charge on the water segments for dredging and maintaining the rivers and deepening the harbors, you unsystematically and unequally tax the water routes and subsidize the railroads. We need the railroads and truck lines and the barges. Place a tax where it should be, on all the cargo moving for export, and pay for what is needed to sustain and make viable the economy of this Nation. You know we must export (and export as cheaply as possible) in competition with the other blessed Nations who move their resources where needed in foreign trade. Your hearings, and we hope, subsequent research with such facilities available as the Auburn University study of User Charges in this area (and all the other research facilities the Congress should have available) should be enough in depth (at your request) to reach an equitable solution to a nationwide export tax which could keep the railroads viable in unfettered Staggers fashion and *aid both the barge and truck industries in moving cargo to export facilities all over the Nation.*

We have so far urged rail, water, truck tax equity. We must say that a User Charge system forced only on water transport would enhance the chance of a railroad monopoly. Railroads have always demonstrated their willingness to take advantage of monopoly situations. The bleak picture for future competition in the transportation industry is eloquently outlined by a highly respected railroad lawyer, Harold E. Spencer, in the February 8th issue of Traffic World, copy attached and requested to be a part of this record.

RYAN-WALSH STEVEDORING COMPANY, INC.

Jack W. Campbell

Jack W. Campbell
VICE PRESIDENT

Pope & Quint

P.O. Box 16546, Mobile, Alabama 36616

☐ Airport Gallery, 3805 Airport Blvd., Mobile, Alabama 36609 • (205) 344-5520
☐ Skyline Gallery, 4430 Government Blvd., Mobile, Alabama 36609 • (205) 661-9060
☐ Saraland Gallery, 2 North Highway 43, Saraland, Alabama 36571 • (205) 675-7493
☒ Hillcrest Gallery, 800 Hillcrest Road, Mobile, Alabama 36609 • (205) 343-6400
☐ Corporate Office, 800 Hillcrest Road, Mobile, Alabama 36609 • (205) 343-6500

March 8, 1982

The Honorable Jeremiah Denton
United States Senate
Washington, D. C. 20510

The Honorable Howell Heflin
United States Senate
Washington, D. C. 20510

My dear Senators Denton and Heflin:

I attended the March 5 hearing on user tax and was very favorably impressed with Senator Abdnor's quest for facts. I believe that the enclosed paper may provide some of that information.

This paper, entitled,"Change in the Inland Waterway User Tax and its Effect on Coal Traffic in Mobile, Alabama," was written as the final requirement for completion of the MBA program at the University of South Alabama, from which I graduated in June, 1981.

Page 23 has special information regarding pricing for barge and rail which may be helpful. Also, the first item in my bibliography is an excellent pocket-sized pamphlet published by the American Waterways Operators, Inc., entitled "The Barge and Towing Industry - A Statistical Profile." This has basic information regarding barge capabilities, ton-miles, etc. I would be glad to send a copy of my pamphlet, but in the year which has elapsed since completion of this study it has somehow gotten misplaced.

I am sending an extra copy of the paper to Senator Denton for forwarding to Senator Abdnor. I welcome your comments, and would especially like to meet both of you when you are in Mobile and have a little spare time.

Best wishes.

Sincerely,

Emily Sommer

Emily H. Sommer

cc: Senator James Abdnor

CHANGE IN THE INLAND WATERWAYS USER TAX AND ITS EFFECT ON COAL TRAFFIC IN MOBILE, ALABAMA

Emily H. Sommer
MKT 518
Winter Quarter, 1981

CHANGE IN THE INLAND WATERWAYS USER TAX AND ITS EFFECT ON COAL TRAFFIC IN MOBILE, ALABAMA

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CHANGE IN THE INLAND WATERWAYS USER TAX AND ITS EFFECT ON COAL TRAFFIC IN MOBILE, ALABAMA

Inland waterways of America have been toll- and tax-free since the Northwest Ordinance of 1787. Traditional federal policy toward waterway users has been positive, viewing the waterways as the key to development of the interior of America. In later days, the government saw water traffic as effective competition to the railroads. To demonstrate the feasibility of operation of barges in a modern economy, the federal government went to the extent of operating a barge line on the Mississippi River system in the years between 1928 and 1953. [1]

Construction, maintenance and operation of the waterways and the dams, locks and canals have been the responsibility of the U. S. Army Corps of Engineers. Funding has come from the general revenues of the federal government through annual Congressional appropriations.

Barge traffic has increased dramatically since 1940, when 70 million tons of cargo were hauled. In 1977, 640 million tons were hauled, of which 70% was petroleum, petroleum

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1- The Impact of Waterways User Charges - An Industry-by-Industry Assessment (National Waterways Conference, Inc., Washington, D. C., 1968) p. 1.

products, coal and lignite. [2] Most of the freight on the waterways is high volume bulk commodities.

Construction, operating and maintenance costs have also risen. Appropriations by Congress for civil works projects of the Corps for fiscal year 1981 were for $ 2.99 billion. These projects included 213 construction projects, the continuation of work on 192 projects, 3 new planning starts, and 57 continuing planning projects.[3] One of these projects is the very controversial Tennessee-Tombigbee Waterway, which was awarded $212 million. Total costs for the Tenn-Tom will be $1.8 billion by completion in 1986.[4] As of March, 1981, the project was more than 50% complete with 80% of the funds obligated.[5]

Criticism of government subsidies of the waterways has increased since the 1961 report of the Special Study Group on Transportation Policies in the U. S. Also known as the Doyle Report, this study stated that subsidy to waterway users was "unjustified and that imposition of water user charges

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2-"The Barge and Towing Industry - A Statistical Profile" (American Waterways Operators, Inc., Arlington, Va., 1979).

3-"Civil Works Budget Nears the $3 Billion Mark," *The Waterways Journal* , 13 December 1980, p. 28.

4-*Ibid.*

Cobun, Peter, "Senate panel votes 'no' on Tenn-Tom Waterway," *Mobile Press-Register Weekend*, 14 March 1981.

might result in greater economic efficiency."[6] Critics pointed out that the number of waterway projects was growing and that the funding required for them was enormous.

Matters came to a head over the deteriorating condition of Lock and Dam 26, at Alton, Illinois. Built in 1938 at the confluence of the Mississippi and Missouri Rivers, it not only was in need of repairs, but was incapable of efficiently locking the increased barge traffic. This caused a bottleneck at a crucial section of the river and created long and expensive delays for barge operators.

Political pressure mounted to build additional locking capacity. Midwestern grain exports were delayed, causing a further distortion in America's balance of payments, already strained because of oil imports.

Estimates to Congress of replacing L&D 26 were $421 million. Repairs were reported to be almost as costly and would involve closing down this facility for two years.[7]

President Carter supported user taxes and the replacement of the dam became joined with this issue. In testimony before the House Ways and Means Committee, Secretary of Transportation Brock Adams said that the President was committed to user charges in view of the high costs of maintaining the

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6-User Taxes for the Inland Waterways of the United States, Hearings before House Ways and Means Committee, 95th Congress, 1977, p. 321.

7- "Additional views of Richard A. Gephardt," Internal Revenue Code of 1954, PL 95-502.

waterways and constructing new projects. "What is occurring now is that many of the locks and dams are entering the replacement cycle, so if you are going to maintain the waterway system for commercial use, you are going to have to replace many of these or rehabilitate them. That is why we are involved at this point with this proposed user charge," the Secretary stated.[8]

The Administration proposed that a fuel tax and/or tolls be imposed to recapture 100% of the operating and maintenance costs of the waterways and 50% of the cost of new construction. For fiscal year 1977, the estimated operating and maintenance costs of the waterways were $ 211 million and $ 139 million for half the cost of new construction for a total of $350 million. Administration estimates of the size of a fuel tax necessary to recapture such expenditures were 40 cents a gallon of fuel used on the waterways.[9] At the time, this amount was approximately the same as the price of a gallon of diesel fuel.

The secretary suggested the imposition of a lower fuel tax and the use of segment tolls placed on the waterways. He pointed out that with a fuel tax alone, users of a heavily-traveled segment, such as the lower Mississippi, would be subsidizing the waterways that were less traveled.

8- Hearings before House Ways and Means Committee, op. cit., p. 20.

9- Ibid., p. 6.

To ease the adjustment of the barge industry to a user charge, the Administration suggested a ten-year phase-in period with gradual increments of the tax, until the 40¢ per gallon tax was reached.[10] The unknown effect the tax would have on the waterways industry was emphasized by the Administration and by spokesmen for the waterways, and the need of a study to be made of such effect was stressed.

Proponents of a user charge included, predictably, the railroads. William H. Dempsey, president of the Association of American Railroads, testified before the House Ways and Means Committee that, "The free ride that government navigation expenditures give to barge operators is not only unfair to railroads, other competing modes, and many shippers, it also contributes to unsound waterway investment decisions. ...Waterway users, with no financial responsibility for the system they use, have nothing to restrain them from asking the Congress each year for larger and more expensive facilities... The establishment of a system of user charges that would recapture capital costs from waterway users would help assure rational decisions on difficult and often controversial waterway investment issues....The tax necessary to recapture 100% of 1977 expenditures...would be 64¢ a gallon."[11]

10- Ibid., p. 39.

11- Ibid., pp. 314-315.

Harold Brown, director of American Rivers Conservation Council, stated before the same committee, "It is our belief that such questionable projects as the Red River Waterway and the Tenn-Tom barge canal would never be considered, much less constructed, if private interests had to deal with the huge cost overruns and questionable benefits these projects entail."[12]

User charge proponents pointed out that railroads had to maintain their own roadbeds, and that interstate highway users paid a fuel tax into the Highway Trust Fund. The use of general revenue funds for waterway projects was debated, with tax proponents declaring that waterway benefits extended only to those people residing in the area of the waterway. The subsidizing of one mode of transportation by the federal government at the expense of other modes was criticized.

Senator Peter Domenici of New Mexico, a leading proponent of waterway user charges said, "Some say that the inland waterways of America are there to be used and no one should interfere; they should be free. My response to them is, indeed, the Supreme Court said that. But if you read the decision, you will find that they did not mean that if the taxpayers of America had to build locks, dams, spend hundreds of millions of tax dollars each year to dredge them and maintain them, they were to get that free forever.

12-Ibid., p. 323.

Therein the issue lies."[13]

Secretary Adams testified that the federal contribution to the interstate highway system is 100% financed by user taxes and that user taxes help finance airport and airway development. He asserted that waterways should be placed in the same category and taxed.[14]

User charge opponents declared that cost recovery is not a prevailing policy of the government even in transportation, where user charges have been applied. The singling out of the barge industry for such recovery was questioned. In later hearings before the Senate, Dr. Michael Bronzini, Associate Director of the Transportation Center, University of Tennessee, testified that it is "unfair for one set of standards to be applied to federal aid to water transportation and another set applied to federal aid to other modes of transportation."[15]

Representative Bill Frenzel of Minnesota charged that the government is getting no recovery for the billions it has expended in research on improvement of agricultural products or in development of jet engine technology, for example. "Why isn't barging treated the same way? It is the most

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13- Congressional Record-Senate, 3 May 1978, p. S6815.

14- Hearings before House Ways and Means Committee, op. cit., p. 10.

15-Transportation Needs of Increased Coal Production and Completion of the Tennessee-Tombigbee Waterway. Hearings before the Senate Subcommittee on Water Resources, 1980, p. 420.

energy efficient and the lowest cost means of transport in a time of energy shortage and high inflation. These benefits permeate the entire economy and therefore provide exactly the same rationale which justifies a 'no recovery' policy."[16] Other waterway supporters justified the use of general revenues for waterway projects on the grounds that the general population is benefited by the flood control and irrigation effects of the projects and that the waterways provide an alternate mode of transportation.

The purity of the operating and maintenance costs of the waterways was questioned, as possibly being contaminated by non-navigation costs, such as recreation and irrigation costs. Waterway supporters protested the unfairness of the barge operators paying for such costs.

The nature of federal subsidies to the railroads was examined critically by waterway supporters. The Department of Transportation provided a list of the following subsidies:

(1) land grants to western railroads for roadbeds;

(2) an annual funding of $250 million to the railroad retirement fund. Funding began in 1974, to run for 25 years;

(3)deficits incurred by Amtrak between 1971-75 in the amount of $1,048,000,000;

(4) the Emergency Rail Services Act of 1970 providing loan guarantees of $106 million;

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[16] Hearings before the House Ways and Means Committee, op. cit., p. 15.

(5) the Emergency Rail Facilities Restoration Act with $26 million in direct loans;

(6) the Regional Rail Reorganization Act of 1973, as amended, providing $264 million in grants and $285 million in direct loans;

(7) the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, authorizing $.6.5 billion for Conrail and intercity rail service in the Northeast corridor.[17]

User charge opponents stated that a change in cost patterns resulting from a fee or tax might have undesirable effects on the barge industry and on the economy as a whole. Representative Doug Walgren of Pennsylvania testified that imposition of a user charge would raise the cost of barging Pittsburgh steel to the Gulf Coast enough to render domestic steel non-competitive with Japanese and European steel.[18]

Secretary Adams addressed the debate on the effect such a user charge would have on water traffic. He estimated that recovery of 100% of operating and maintenance costs and 50% of construction costs through a charge would result in a 10% average diversion of traffic from the water to other forms of transport. He stated that attempts to recover all

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17- Ibid., pp. 13-14.

18- Ibid., pp. 108-111.

costs of a very high-cost waterway with many locks and dams through imposition of a segment toll could cause a 100% diversion of traffic from such projects as the Arkansas River project or the Allegheny River project.[19]

The bill that emerged, Public Law 95-502, represented a compromise between Senator Russell Long of Louisiana and Senator Domenici. It provides for a 4¢ per gallon tax on diesel fuel used by commercial waterway vessels, rising in two-cent annual increments until 1985, when the tax would be ten cents a gallon.

The first part of the bill authorizes the establishment of a comprehensive master management plan for the upper Mississippi River system and funding in the amount of $12 million for a study to develop such a plan. It also authorizes construction of a new lock and dam to replace Lock and Dam 26 for $421,000,000.

The second part of the bill is the Inland Waterways Revenue Act of 1978 and provides for the user tax. The tax is collected from any freight carrier owner or other persons incurring liability for the tax because of any taxable use of fuel in the course of a calendar quarter.

The Internal Revenue Service stated in a news release that "Commercial waterway transportation means using a vessel to transport property either for compensation or in the busi-

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19- *Ibid.*, p. 9.

ness of the vessel's owner, lessee, or operator. Fish or aquatic animal life caught on the voyage, however, is not considered property for this tax....Liquid fuel for tugs used exclusively to pull oceangoing LASH and SEABEE barges picking up or delivering international cargoes is exempt from the excise tax." [20]

The tax went into effect October 1, 1980. The amount of tax is due by the last day of the first month following that calendar quarter, and is filed on form 720 - the Quarterly Federal Excise Tax Return. The results of the collection of the first quarter of operation will be available in May, 1981. [21] Estimates of the amount to be collected during the first year are of a possible $30 million, or about 10% of federal expenditures on the waterways.[22]

The bill established an Inland Waterways Trust Fund into which amounts of money equal to the amount of user tax collected will be placed at least quarterly. The Secretary of the Treasury will hold the Trust Fund and will report to Congress annually on the financial condition of the Fund. Expenditures from the trust Fund will be made for construction and rehabilitation projects on the inland waterways, as they

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20- United States Department of the Treasury, Internal Revenue Service, Public Affairs Division. News Release of 18 September 1980.

21- Telephone interview with Raymond H. Nolan, Tax Law Specialist, Tax Division, Internal Revenue Service, Washington, D. C., 17 February 1981.

22-Hearings before the House Ways and Means Committee, op. cit., p. 67.

are authorized by Congress.

The bill establishes a study to be made of the impact of the tax on various modes of transportation; considerations relating to the extent of recovery the federal government should seek to recapture through user taxes; administration of the tax; economic effects of the tax on users and the economy; economic feasibility of waterway improvement projects; level of benefits of such projects; and considerations relating to policy and future developments in transportation. The bill authorized $12 million for the study, however, the funding appropriation was for $1 million, so the study has been curtailed. The results of the study will be made available to Congress by the Secretary of Transportation, as specified in the bill, by September 30, 1981.

The present study is designed to:

(1) ascertain the point at which the level of user charges cause a shift in grain tonnage from barge to rail traffic, subject to two alternatives; (a) that railways will maintain present rates to attempt to capture more traffic, and (b) that railways will raise rates to maximize revenues,

(2) build into the model general user tax and the use of segment tolls;

(3) identify conflicting points of view on: (a) cost allocation, (b) historical outlook on governmental transportation programs, (c) relation of transportation to development, and (d) transportation of materials hazardous to

the public.[23]

Shallow-draft waterways are included in the tax. The Great Lakes, the St. Lawrence Seaway, and the Mississippi River below Baton Rouge are excluded, as are harbors accommodating ocean-going vessels. The Mississippi River and its tributaries, the intracoastal waterways, and the Columbia River system are the waterways principally affected. The Tennessee-Tombigbee Waterway is not included.

So, for the first time, user tax on the inland waterways has been imposed and collected. Harold E. Welch, general manager of the Mobile Transportation Rate Bureau, said that after October 1, 1980, waterborne rates increased by four cents a gallon almost immediately, and that it is fairly safe to assume that the tax will be passed on to the customer, up to the point at which traffic shifts to another mode.[24] Robert A. Guthans said that the Revenue Service is apparently having difficulty identifying "propulsion fuel," as the base on which the tax is imposed, and that the implementation of the tax contains grey areas .[25]

Meanwhile, the port of Mobile is enlarging its capacity to handle the great amounts of export coal and grain expected

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23-Telephone interview with Ed Case, Economist, Economics Study Division, Department of Transportation, Washington, D.C., 17 February 1981.

24- Interview, 2 March 1981.

25-Interview with R. A. Guthans, President, Radcliffe Marine Services, Fairhope, Alabama, 13 March 1981.

to pass through the Alabama State Docks. The $100 million bond issue of February 1, 1981, will enable the Docks to speedily and efficiently unload, store, and load these commodities and keep handling charges low.

Coal exports have rapidly increased because of the high price of imported oil and the growing reluctance of America and her allies to import such great quantities of it. Under Project Independence, the United States set a goal of energy independence by 1985. "Conversion of utility and industrial power and heating systems from oil and natural gas has become standard national policy of the U. S. government and a number of other foreign industrial countries. Similarly, new utility power plants are being required to consider the coal alternative." [26]

Increased use of coal, especially steam coal, has had a startling effect on America's exports. Major General E. R. Heiberg, III, testifying before the Senate Subcommittee on Water Resources, said, "The National Waterways Study forecasts indicate that coal will grow from 16 to 26% of total waterborne commerce by 2003. This does not include the very recent prospects for dramatic growth in the exports of steam coal, which could well add an additional 100 million tons to the NWS projections. The greatest coal demand will

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26- Hearings before the Senate Subcommittee on Water Resources, op. cit., p. 431.

continue to be for support of coal fired utilities."[27]

Carl Bagge, president of the National Coal Association, said in a speech at a recent meeting of the American Association of Port Authorities, "Coal tons from U. S. ports had been expected to total 50 million tons during 1980 as compared with 45 million tons exported in 1979. However,... because of a sharp jump in demand overseas for coal, 72.8 million tons went to overseas buyers during 1980. The coal that did leave our shores added about $4.5 billion to the balance of payments, but the lost tonnage due to lack of facilities cost the country another half billion dollars." [28]

These enormous increases in coal traffic put the ports of America in a difficult situation. The coal could not be unloaded fast enough onto the waiting ships, causing long delays. In the Wall Street Journal, Thomas Petzinger, Jr., wrote, "Foreign utilities paid nearly one million dollars in demurrage charges to each of scores of foreign vessels that stood at anchor... Recently, more than 145 colliers were waiting empty at Hampton Roads, which meant an average delay of 60-70 days." [29]

The Alabama State Docks is readying for the increase.

27-Ibid., p. 517.

28- "Efforts to increase coal exports noted," Mobile Register, 18 February 1981.

29- Petzinger, Thomas, Jr., "Inadequacy of U. S. Coal-Export Terminals Sparks Oil-Money Push to Expand Capacity," Wall Street Journal, 27 February 1981.

A recently-completed $20 million expansion of coal export facilities will increase export capacity to about 10 million tons per year, up from last year's record of 5.2 million tons. When the $52.6 million expansion of the McDuffie coal terminal is completed, the port will be able to export more than 23 million tons annually by 1983.[30]

William H. Black, Jr., assistant administrator of the Docks, said that the present exported coal is metallurgical coal, which must be kept separated from steam coal. The increased storage and handling facilities will enable export of both types of coal from Mobile. He pointed out that Mobile is the only American port able to move coal from ground storage to ship. He said that coal at Norfolk is stored in rail cars, which leads to high demurrage costs. At the Alabama State Docks, ships can be loaded from storage, rail cars, barges, or from a combination system of all three sources simultaneously to ship. [31]

The new facility will be capable of storing up to 1,900,000 tons of coal, which will permit shippers to place coal in storage until a shipload has been accumulated. It will also permit shippers to store coal in anticipation of interruptions in coal supply. [32]

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30 Werneth, George, "New Orleans to beat Mobile in coal export," Mobile Press, 18 February 1981.

31- Interview, 24 February 1981.

32- The Industrial Development Board of the City of Mobile, Alabama, Coal Export and Port Facilities Expansion Revenue Bonds, 1981 Series (Alabama State Docks Department Project) p. iii.

When the Tenn-Tom is complete, it will bring in coal from north Alabama, Kentucky, Tennessee, and other parts of Appalachia. It is expected to generate 16, 413,000 additional tons of cargo through the port of Mobile during the first year it is scheduled to be open. Of this amount, 12 million tons is to be coal.[33] Corps of Engineers estimates predict that more than 20 million tons will move on the waterway each year, of which 15 million tons will be coal. This estimate does not count the amount of coal moved by rail to Mobile. "If the one-third rate continues to be the overall average amount of coal which comes to Mobile by railway, then millions of tons of coal would have to be added to the Corps waterway estimate to get a more complete coal total for the periods after the Tenn-Tom opens," reported the Mobile Press.[34]

The port of Mobile is served by four major trunk line railroads; Southern Railways, Illinois Central Gulf, Burlington-Northern and Louisville and Nashville. The Tenn-Tom will compete principally with the L&N for coal tonnage, according to Charles A. Nick, sales manager for L&N and Seaboard Coast Line. The railroad is putting forth a strenuous effort to fight the waterway. The L&N has joined with an environmental group named CLEAN (Committee for Leaving the Environment Natural) to protest the huge scope and cost of

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33- Werneth, George, "Docks bond issue for readiness," Mobile Press, 27 January 1981.

34- Ibid.,

the Tenn-Tom. The L&N questions the benefits of such expense. One of the ironies of the situation, Mr. Nick pointed out, is that it pits one branch of the federal government- the Fish and Wildlife Service of the Department of the Interior, against another segment - the Corps of Engineers. Mr. Nick declared, "The waterway users should pay their fair share of transportation costs. The user tax should be as high as it can be pushed. The railroads maintain their roadbeds and pay taxes and have to carry everything. The waterways industry can pick and choose what they carry. There is no reason for one transportation system to receive favorable treatment at the expense of another." [35]

The L&N and the environmentalists filed suit in 1976 to halt construction of the Tenn-Tom, charging that the Corps increased the width of the waterway from 170 feet to 300 feet without Congressional authorization. The U. S. Supreme Court upheld the dismissal of the first two counts of the suit, according to The Waterways Journal. "The plaintiffs have appealed the latest district court decision to the Fifth Circuit Court of Appeals in New Orleans and have requested a court injunction to halt construction," the article continues.[36]

In testimony before the Senate, the attorney for the Tenn-Tom Development Authority stated, "Without the Tenn-Tom

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35- Telephone interview, 4 March 1981.

36-Wilkins, Glover, "TennTom Authority Reports Status of Waterway," The Waterways Journal, 17 January 1981, pp. 17-18.

the L&N, with its pending merger with C&O Railroad, will enjoy a monopoly in moving commodities, particularly coal, from eastern Kentucky and Tennessee to souther states, such as Florida."[37] In a recent issue of LandMarc, the effect of the opening of the Tenn-Tom on coal traffic was expressed: "Coal will be the principal commodity moved on the Tenn-Tom, with the average savings in transportation costs compared to alternate modes estimated at $2.57 per ton. A 1975 study by A. T. Kearny Company, Inc., predicted more than 21 million tons of coal would move at a savings of $54 million during the Tenn-Tom's first year of operation alone; however, those figures are now seen to be greatly underestimated for two reasons. In 1975, only metallurgical coal was considered as an export commodity. The recent boom in the export steam coal market will greatly boost coal movement from Appalachian coal fields along the Tenn-Tom to Mobile. In addition, because of congestion at Eastern ports, many exporters are focusing on Mobile as a prime spot for moving coal out of the country efficiently and quickly."[38]

The State Docks is expecting an increase in coal tonnage moved by rail when its expansion is completed. Mr. Black said that the present ratio of train-to-barge traffic is 30/70,

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[37] Hearings before the Senate Subcommittee on Water Resources, op. cit., p. 26.

[38] Rock, Andrea, "Tenn-Tom," LandMarc, November/December, 1980, p. 24.

However, projections for the nature of future traffic are closer to 50/50.[39]

The Tenn-Tom is the largest public works project ever undertaken by the Corps, and has been roundly criticized by waterway opponents. Charges of "pork barrel" and "boondoggle" color the funding debates on the waterway. Last year a change of only 11 votes would have effectively killed the project. On March 13, 1981, in a surprise move, the Senate Environment and Public Works Committee voted 9-4, with two abstentions, to cut spending for the Tenn-Tom from the $201 million recommended by President Reagan, to $25 million. "The $25 million would keep open the project's administrative offices and would allow some work on the channel between Demopolis, Ala., and Columbus, Miss. But it would halt construction of the 100 mile extension from Columbus into Tennessee, remarks the Mobile Press-Register Weekend.[40] The members of Congress supportive of the Tenn-Tom clearly have their work cut out for them.

President Reagan recommended funding the Tenn-Tom this year for the $201 million. His support, however, was tied to a 30-34¢ per gallon user tax on the waterways. He proposed the elimination of inland waterway subsidies and the independence of the waterways, funding costs through collection of user tax. He said, "The federal government now spends $325 million per year on waterway maintenance ... Under this proposal, user fees will increase from 6 cents a gallon to about 30 cents a gallon in 1983. It is estimated that the increase in cost to shippers will be less than .04¢ per ton mile. The program will be designed to increase receipts thereafter as expenses rise and to pay for new construction and operation. Users will not be required to repay the construction of the existing system (estimated at $6 billion) - only the cost of additions as they are completed." He proposed other budget cuts touching the transportation industry. These cuts were that: subsidies for airport and airway users be phased out; Amtrak fare subsidies be reduced; funds for the Northeast Corridor Improvement Project be reduced; federal support for low volume railroad branchlines be reduced; mass transit capital grants and airport construction grants be reduced.[41]

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[39] Interview, op. cit.

[40] Cobun, Peter, op. cit.

Pricing of transportation is clearly going to be a key element in the export of American coal. Gerald Robinson, director of sales and marketing at the Alabama State Docks, estimates that, on a 9-day dawn-to-dawn round trip by barge from Mobile to Birmingham for coal, a 30¢ per gallon tax

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41- Reagan, Ronald, Speech of 15 February 1981.

would add roughly $ 1500 to the cost of the trip.

Pricing in waterway rates will be reflected in railroad rates. Present policy of the Interstate Commerce Commission allows railroad coal carriers a rate of 7% plus recapture of all fixed and variable costs. A recent case of railroad price increases involves the municipal power plant of San Antonio, Texas, and the Burlington-Northern Railroad. Steam coal was shipped on the railroad to the plant during a period of rate increases. The rates rose from $7.90 per ton to $18 per ton, causing the bill for transportation to be twice the value of the coal.[42]

An example of water-compelled rates was introduced in testimony before the House Ways and Means Committee by waterway proponents. It showed that the barge rate for sheet steel transported from Chicago to Pine Bluff, Arkansas, to be $8.31 per ton. Rail rate for the same trip, a distance of 632 miles, was $14.24 per ton. The rail rate from Chicago to Wichita, Kansas, a distance of 636 miles, was $24.00 per ton of sheet steel.[43]

"The case for differential pricing of rail service is well known," said the chairman of the ICC in an article in *Railway Age*. "A carrier gains by hauling any traffic it can

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43- Hearings before the House Ways and Means Committee, *op. cit.*, p. 184.

42-"A multimillion-dollar bet on Western coal," *Business Week*, 20 August 1979, pp. 88-89.

get at rates exceeding variable cost, rather than lose that traffic to competing modes. However, if some traffic moves at rates below fully allocated cost, some other traffic must move at rates above fully allocated cost if the carrier is to earn adequate overall revenue."[44]

According to Robert A. Guthans, the waterways industry is not opposed to paying user charges, but the barge operators feel that in the interest of fairness that user charges should be applied across the board to all modes of transportation at an equitable rate. He pointed out that the railroads are subsidized annually in their pension fund in an amount which is almost the same as the costs of operating the inland waterway system. Railroads were given large land grants for roadbeds for which they have never paid. Also, he noted, the railroads have a hidden subsidy in the industry's right to feed into Conrail. Such a subsidy would certainly be beneficial to any transportation mode, but does not exist except for the railroads. Requiring the barge operators to repay all operating and maintenance and half of construction costs is not fair when such requirements are not placed on other modes, he continued. The waterways operators feel strongly that the operating and

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44- Gaskins, Darius W., Jr., "The coal dilemma: Railroad needs vs. user demands," Railway Age, 28 April 1980, p. 40.

maintenance costs of the waterways contain non-navigation elements which should be removed from the costs borne by the waterway users.[45]

A tax on fuel would apparently cause less of a shift from barge traffic than would a segment toll. A study of user tax by the Virginia Water Resources Research Center concludes , "A uniform charge administered as a fuel tax on all waterways would have a small impact if full federal operation and maintenance costs are recovered. The recent legislation, which requires a lower fuel tax level, would have virtually no effect on grain movements by barge. A toll tied to recovery of operation and maintenance costs of a particular waterway segment would reduce traffic on the high-cost waterways.[46]

Mr. Harold Welch agreed. He said that the imposition of a segment toll on the Tenn-Tom would render it non-competitive. In his opinion, such a toll would completely divert traffic from the waterway.[47]

The completion of the Tenn-Tom is clearly necessary to expedite the shipping of export coal. Governor Fob James said, "This waterway is justly termed an energy-way. The World Conference on Coal held in Venice called for more than

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45-Interview, 13 March 1981.

46-Binkley, James, Navigation User Charges: Impact on the Transportation of Agricultural Products, Virginia Water Resources Research Center, 1979, p. 1.

47-Interview, 2 March 1981.

doubling the present world use of coal for energy. The rest of the world is looking to the United States to supply much of that additional coal. The Gulf ports of New Orleans and Mobile will likely handle a third of coal exports in the future. The Tenn-Tom will make both and foreign and domestic markets accessible."[48]

The export of American coal to the world and the increased domestic consumption of coal accomplish several objectives. America's costly oil imports are reduced and payments for exports bring the federal government into a better economic climate. The domestic use of coal also reduces demands on our own oil and gas supplies.

Barges are energy-efficient. A hopper barge can carry as much as 15 100-ton rail cars and gets twice as many ton-miles to the gallon. Barging coal will keep the cost of coal down and will conserve fuel at the same time.

The Tennessee-Tombigbee Waterway is necessary to bring Appalachian coal closer to Gulf ports. The waterway will save miles of water travel for barges and will decrease fuel costs and consumption. The size of the tows will be smaller than those on the Mississippi River because of the many locks to be utilized and because of the sharp bends in the rivers. However, the fuel savings and shorter trips should offset the disadvantage of smaller size. Coal will get to port in a cheaper and more energy-efficient manner.

The improvements at the Alabama State Docks will keep handling and demurrage costs low. If the ship channel is deepened to 50 or 55 feet, as proposed by Senator Howell Heflin of Alabama, the large coal ships can call at Mobile. These ships will make coal handling costs even less. American coal will remain competitive with coal from Canada, South Africa and Australia. The port of Mobile will be very attractive to shippers who are caught up in costly delays at other ports.

The railroads are anticipating increased coal tonnage. Rail traffic is cheaper and more energy-efficient than trucks. The only other real competition railroads have in hauling coal is waterway users. Coal slurry pipelines are an option, but the tremendous problems connected with water usage and the environment keep the pipelines in the distance.

With the freedom that the railroads have to set prices high enough to regain total costs plus a 7% profit, the future looks golden for the railroads. If the Tenn-Tom is not completed, or if a segment toll high enough to divert traffic is placed on it, the railroads will have no competition in hauling coal into Mobile. The sad experience of the San Antonio City Public Service could easily be repeated. High transportation costs would lessen the competition that America could offer in the coal market.

To decrease government spending and to shore up the American economy, the federal government is changing its traditional policy of toll-and tax-free waterways. Commercial waterway users are being charged through an excise tax imposed on diesel fuel used on these waterways. Waterway users have stated that they do not object to paying for the waterways. They do object to paying for non-navigation costs, and they do object to being singled out as the only transportation industry expected to repay all operating and maintenance costs and half of all construction costs.

The figures cited by the Corps as representing operating and maintenance costs for the waterways are questioned by the barge operators. The Corps of Engineers has recently released results of a preliminary study of cost allocation of waterways. The Journal of Commerce & Commercial edition of November 10, 1980, relates in an article entitled, "Barge Lines Hail Results of Cost Study," that from 25 to 30% of total navigation expenditures for inland waterway transportation are non-commercial navigation costs.

The railroads have been emphatic in their protests that one mode of transportation should not receive favorable treatment. However, an examination of federal subsidies granted to railroads shows that these monies dwarf the subsidies to waterways. Senator Domenici stated in the Congressional Record of May 3, 1978, that in return for the land grants to the railroads, the American public got a

50% freight reduction that "ran right on through the Second World War and for a few years beyond that so the taxpayer got back more than he ever gave."

World War Two was a long time ago. Since then it appears that the railroads have had loan guarantees, grants, and annual contributions to the railroad pension fund. At the same time the unprofitable branch lines and passenger service have been underwritten by the federal government. Why should not the taxpayer be repaid a fair share of these federal expenditures?

To deal with the questions of equitable user charges on transportation modes involved in coal traffic, the following recommendations are made.

1. The Tennessee-Tombigbee Waterway should be completed, with half its construction costs coming from general revenues. The waterway will be of great benefit to the nation as a means of saving energy and exporting coal.

2. The cost analysis of waterway operating and maintenance by the Corps of Engineers be completed to properly allocate navigation costs to commercial waterway users. User tax schedules should be established to recapture 100% of these costs.

3. The impact study established in Public Law 95-502 should be completed and presented to Congress as scheduled. It is

due September 30, 1981. A million dollars has been spent on this study to ascertain the effect user tax will have on transportation industries. Changes in the tax should be made with thie completed study as a reference.

4. The Corps of Engineers presently produces hydroelectricity at seven dams in the Cumberland River system and sells it to the Tennessee Valley Authority. The Corps should be empowered to produce electricity at all dams that do not have power facilities presently on them. The electricity should be made for the locks and dams in the waterways and excess power should be sold to the utility company nearest the dam. The utilities should be required to purchase the excess power.

This action will produce several benefits:

a. It utilizes an energy source that presently is wasted.

b. Lock and dam consumption of its own electricity will reduce operating costs.

c. Money received from the sale of excess power and placed in the Inland Waterways Trust Fund will offset waterway costs to a certain extent.

d. It will reduce fossil fuel consumption by utilities, releasing more steam coal for industrial use or for export.

5. Federal subsidies of railroad pensions should stop. The railroads should be required to pay the amount themselves, thereby insuring the economic security of those persons dependent on the pension.

6. A study of the present value of the land grants to the

railroads should be made by the General Accounting Office. Capital expenditures on such grants by the railroads for roadbeds and railway facilities should be subtracted from the value. Legislation should be passed requiring the railroads to purchase these lands from the federal government over a 25-year period. The value of capital expenditures made for transportation purposes subsequent to the passage of such legislation should be subtracted from the purchase price. This will repay the government for the grants and will encourage the railroads to improve their capital assets, resulting in better transportation for America.

Public Law 95-502
95th Congress

An Act

Oct. 21, 1978
[H.R. 8533]

To amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

TITLE I—REPLACEMENT OF LOCKS AND DAM 26; UPPER MISSISSIPPI RIVER SYSTEM COMPREHENSIVE MASTER MANAGEMENT PLAN

42 USC 1962b-3 note.

SEC. 101. (a) The Upper Mississippi River Basin Commission (referred to in this section as the "Commission") shall prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. The Commission shall publish a preliminary plan not later than January 1, 1981. The Commission shall hold public hearings on the preliminary plan in each State which would be affected by the plan, shall review all comments presented at such hearings or submitted in writing to the Commission, and, after making any revisions in the plan it decides are necessary, submit to Congress a final master plan not later than January 1, 1982. All decisions of the Commission related to the master plan shall be made by a two-thirds majority vote of the Commission.

Preliminary plan.
Final plan, submittal to Congress.

(b) The Commission shall provide for public participation in the development, revision, and implementation of said plan and shall encourage and assist such participation. The Commission shall, within 150 days after the date of enactment of this Act, publish guidelines in the Federal Register for public participation in the development, revision, and implementation of the plan. The final master plan shall not be implemented without the express approval of the plan by an Act of Congress enacted after the date of enactment of this Act. After such approval, no change may be made in the master plan except as may be provided by an Act of Congress enacted after the date of enactment of the Act approving the master plan. No person shall engage in any activity which violates any provision of the plan or which is inconsistent (as determined under regulations promulgated by the Commission) with the plan.

Publication in Federal Register.

(c) The Commission, in developing the plan, shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include with the proposed master plan any legislative proposals which may be necessary to carry out such recommendations and achieve such objectives.

(d) For the purposes of developing the plan, the Commission shall conduct such studies as it deems necessary to carry out its responsibilities under this section, utilizing, to the fullest extent possible, the resources and results of the Upper Mississippi River resources management (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94–587) and of other ongoing or past studies. The Commission may request appropriate Federal, State, or local agencies to prepare such studies. Any Federal agency to which such a request is submitted may conduct any such study for the purpose of this section.

90 Stat. 2924.

Studies.

(e) Studies conducted pursuant to this section shall include, but not be limited to, the following:

(1) The Secretary of the Interior and the Secretary of the Army, working through the Commission, shall undertake a study to determine the carrying capacity of the Upper Mississippi River System, and the long- and short-term systematic ecological impacts of (A) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (B) present operation and maintenance programs, (C) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (D) a specific analysis of the immediate and systematic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation of any adverse impact on, and the enhancement of, such resources.

(2) The Commission shall undertake studies to determine—

(A) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy,

(B) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and

(C) transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System.

The Commission is directed to immediately initiate a specific evaluation of the economic need for a second lock at Alton, Illinois, and the direct and indirect systematic effects and needs for such a second lock at Alton, Illinois.

(3) The Commission shall undertake a program of studies, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. The program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) The development by the Commission of a computerized analytical inventory and system analysis for the Upper Mississippi River System to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(f) Any Secretary responsible for conducting a study under subsection (e) of this section, and other studies conducted under this section, shall produce one or more draft reports containing study conclusions and appropriate appendix materials and shall present the reports to the Commission for approval and inclusion in the master plan process.

Appropriation authorization.

(g) To carry out the provisions of this section, there are authorized to be appropriated to the Commission, through the United States Water Resources Council, $12,000,000. The Commission is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized by this section.

(h) For purposes of this section, the Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois, the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(i) No replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress except as provided in section 102 and except for necessary operating and maintenance activities.

(j) The lock and dam authorized pursuant to section 102 shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois, and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace, at Federal expense as a part of project costs authorized in subsection (a) terrestrial wildlife habitat inundated as a result of the construction of the project on an acre-for-acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Secretary for wildlife protection purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach, at an estimated cost of $4,000,000 to be cost shared with the State of Missouri and administered in accordance with the provisions of the Federal Water Project Recreation Act and undertaken independently of the navigation feature of the project.

16 USC 460*l*-12 note.

(c) The project depth of the channel above Cairo, Illinois, on the Mississippi River shall not exceed 9 feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by an Act of Congress enacted after the date of enactment of this Act.

Inland Waterways Revenue Act of 1978.

TITLE II—INLAND WATERWAYS REVENUE ACT OF 1978

Sec. 201. Short title.
Sec. 202. Imposition of tax.
Sec. 203. Establishment of Inland Waterways Trust Fund.
Sec. 204. Trust Fund available for expenditures for navigation construction and rehabilitation projects on inland waterways.
Sec. 205. Study with respect to inland waterway user taxes and charges.
Sec. 206. Inland and intracoastal waterways of the United States.

26 USC 4042 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Inland Waterways Revenue Act of 1978".

SEC. 202. IMPOSITION OF TAX.

(a) In General.—Chapter 31 of the Internal Revenue Code of 1954 (relating to special fuels) is amended by adding at the end thereof the following new section: 26 USC 4041.

26 USC 4042.

"SEC. 4042. TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

"(a) In General.—There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial waterway transportation.

"(b) Amount of Tax.—The tax imposed by subsection (a) shall be determined from the following table:

"If the use occurs—	The tax is—
"After September 30, 1980 and before October 1, 1981	4 cents a gallon
"After September 30, 1981 and before October 1, 1983	6 cents a gallon
"After September 30, 1983 and before October 1, 1985	8 cents a gallon
"After September 30, 1985	10 cents a gallon

"(c) Exemptions.—

"(1) Deep-draft ocean-going vessels.—The tax imposed by subsection (a) shall not apply with respect to any vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

"(2) Passenger vessels.—The tax imposed by subsection (a) shall not apply with respect to any vessel used primarily for the transportation of persons.

"(3) Use by state or local government in transporting property in a state or local business.—Subparagraph (B) of subsection (d)(1) shall not apply with respect to use by a State or political subdivision thereof.

"(4) Use in moving LASH and SEABEE ocean-going barges.—The tax imposed by subsection (a) shall not apply with respect to use for movement by tug of exclusively LASH (Lighter-aboard-ship) and SEABEE ocean-going barges released by their ocean-going carriers solely to pick up or deliver international cargoes.

"(d) Definitions.—For purposes of this section—

"(1) Commercial waterway transportation.—The term 'commercial waterway transportation' means any use of a vessel on any inland or intracoastal waterway of the United States—

"(A) in the business of transporting property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(2) Inland or intracoastal waterway of the United States.—The term 'inland or intracoastal waterway of the United

States' means any inland or intracoastal waterway of the United States which is described in section 206 of the Inland Waterways Revenue Act of 1978. *Ante*, p. 1696.

"(3) PERSON.—The term 'person' includes the United States, a State, a political subdivision of a State, or any agency or instrumentality of any of the foregoing.

"(e) DATE FOR FILING RETURN.—The date for filing the return of the tax imposed by this section for any calendar quarter shall be the last day of the first month following such quarter.".

(b) TECHNICAL AMENDMENT.—Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "chapters 31 and 32" and inserting in lieu thereof "section 4041, chapter 32". 26 USC 4293. 26 USC 4041.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 31 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4042. Tax on fuel used in commercial transportation on inland waterways.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1980. 26 USC 4042 note.

SEC. 203. ESTABLISHMENT OF INLAND WATERWAYS TRUST FUND. 33 USC 1801.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Inland Waterways Trust Fund" (hereinafter in this title referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") to be equivalent to the amounts of the taxes received in the Treasury under section 4042 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways). *Ante*, p. 1696.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each year ending on or after September 30, 1981, on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made. Report to Congress.

(2) INVESTMENT.—

(A) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the

United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) Sale of obligations.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) Interest; proceeds from sales and redemptions.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

33 USC 1802.

SEC. 204. TRUST FUND AVAILABLE FOR EXPENDITURES FOR NAVIGATION CONSTRUCTION AND REHABILITATION PROJECTS ON INLAND WATERWAYS.

(a) In General.—Amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making construction and rehabilitation expenditures for navigation on the inland and intracoastal waterways of the United States described in section 206 of this Act. No amount may be appropriated out of the Trust Fund unless the law authorizing the expenditure for which the amount is appropriated explicitly provides that the appropriation is to be made out of the Trust Fund.

(b) Expenditures Must Be Otherwise Authorized by Law.—Nothing in this section shall be deemed to authorize any program, project, or other activity not otherwise authorized by law.

33 USC 1803.

SEC. 205. STUDY WITH RESPECT TO INLAND WATERWAY USER TAXES AND CHARGES.

(a) Study Directed.—The Secretary of Transportation and the Secretary of Commerce, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget, shall—

(1) make a full and complete study with respect to inland waterway user taxes and charges, and

(2) make findings and policy recommendations with respect thereto.

Such study shall include (but shall not be limited to) a consideration of the matters listed in subsections (b), (c), (d), (e), and (f) of this section.

(b) Considerations Relating to the Taxing Mechanism.—

(1) The extent to which the Federal Government should seek to recover some or all of Federal expenditures for the benefit of inland waterway transportation from the users of the facilities for which such expenditures are made.

(2) The various forms of inland waterway user taxes and charges which could be established.

(3) The various methods of collecting inland waterway user taxes and charges, and the administrative costs of such taxes and charges.

(4) The classes and categories of users and other persons on whom inland waterway user taxes and charges should be imposed.

(5) The waterways of the United States (including the Great Lakes, deep draft channels, and coastal ports) which should be included in any system of user taxes and charges, together with the economic effects of such taxes and charges.

(6) The use of revenues derived from inland waterway user taxes and charges, including consideration of changes in, or alternatives to, the Trust Fund mechanism.

(c) CONSIDERATIONS RELATING TO ECONOMIC EFFECTS.—The economic effects of waterway user taxes and charges on—

(1) CARRIERS AND USERS.—On—

(A) carriers and shippers using the inland waterways, and

(B) users (including ultimate consumers) of commodities which are transported on the inland waterways.

(2) REGIONS, ETC.—On—

(A) existing investment in industrial plants, agricultural interests, and commercial enterprises, and on related employment, in regions of the country served by inland water transportation directly or in combination with other modes, and

(B) future economic growth prospects in such regions, including anticipated shifts of industry and employment to other areas together with an evaluation of effects on regional economies and their development, including consistency with Federal policies as set forth in other legislation.

(3) SMALL BUSINESS AND INDUSTRIAL CONCENTRATION AND COMPETITION.—On—

(A) small business enterprise, and

(B) industrial concentration and competition, both within the transportation industry and in any line of commerce (within the meaning of the antitrust laws).

(4) COMPETITORS.—On the freight rates charged by other modes of transportation and the extent of short-term and long-term diversion of traffic from the inland waterways to such other modes. In considering such diversion of traffic, there shall also be considered the effects of such diversion on—

(A) the development of alternative sources of supply and on alternative modes of transportation and alternative routing to market,

(B) the comparative safety of the handling and transportation of hazardous materials, and

(C) the comparative energy efficiency of the modes and routes of the transportation involved.

(5) PRICES.—On prices of commodities shipped by inland waterways and by competing modes, including the costs of energy materials and the effects on electric power rates.

(6) BALANCE OF PAYMENTS.—On the balance of payments of the United States based on our international trade.

(d) CONSIDERATIONS RELATING TO ECONOMIC FEASIBILITY OF WATERWAY IMPROVEMENT PROJECTS; LEVEL OF BENEFITS FROM WATERWAY EXPENDITURES.—

(1) The effects of inland waterway user taxes and charges on the economic feasibility of inland waterway improvement projects.

(2) The comparative levels of benefits received from Federal expenditures on inland waterways for—

(A) commercial uses, and

(B) other uses, including (but not limited to) recreation, reclamation, water supply, low-flow augmentation, fish and wildlife enhancement, hydroelectric power, flood control, and irrigation uses.

(e) Considerations Relating to Federal Assistance.—

(1) The extent of past, present, and expected future Federal assistance to the several modes of freight transportation. Such consideration shall include an evaluation and comparison of the public benefits resulting from such assistance to each of the several transportation modes in terms of adequacy, efficiency, and economy of service, safety, technological progress, and energy conservation. The Federal assistance considered under this paragraph shall include all forms of such assistance, such as tax advantages, direct grants, rate adjustments for improvement purposes, assumption of pension fund liabilities, loans, guarantees, capital participation, revenues from land grants, and provision of right-of-way operation, maintenance, and improvement.

(2) The competitive effects of past, present, and expected future Federal expenditures on inland waterways on competitive modes of transportation.

(3) The need for Federal assistance to agricultural, industrial, and other interests affected by inland waterway user taxes and charges.

(f) Considerations Relating to Policy and Future Development.—The effects of inland waterway user taxes and charges on—

49 USC prec. 1.

(1) The achievement of the objectives of the National Transportation Policy as set forth in the preamble to the Transportation Act of 1940.

33 USC 540 note.

(2) The expansion and improvement of the inland waterways determined to be necessary by the Secretary of the Army under section 158 of the Water Resources Development Act of 1976 (Public Law 94–587) or estimated to be necessary under paragraph (3).

(3) The requirements of the Nation through the year 2000 for transportation service, the portion thereof which should be provided by inland waterway carriers, and an estimate of the expansion and improvement of inland waterway capacity necessary to meet such requirements.

(g) Inland Waterway User Taxes and Charges Defined.—For purposes of this section, the term "inland waterway user taxes and charges" means taxes imposed on the use of the inland and intracoastal waterways of the United States and all alternatives to such taxes.

Transmittal to Congress.

(h) Report.—Not later than September 30, 1981, the Secretary of Transportation shall transmit to Congress a final report of the study required by this section, together with his findings and recommendations (including necessary legislation) and the findings and recommendations of the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget.

(i) Authorization of Appropriations.—There are hereby authorized to be appropriated from time to time to the Secretary of Transportation such sums, not to exceed $8,000,000 in the aggregate, as may be necessary to carry out the study required by this section.

33 USC 1804.

SEC. 206. INLAND AND INTRACOASTAL WATERWAYS OF THE UNITED STATES.

Ante, 1696.

For purposes of section 4042 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways) and for purposes of section 204 of this Act, the following inland and intracoastal waterways of the United States are described in this section:

(1) Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.

(2) Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.

(3) Apalachicola-Chattahoochee and Flint Rivers: Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chattachoochee and Flint Rivers at RM 107.8. Chattachoochee River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia, at RM 155 and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.

(4) Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to port of Catoosa, Oklahoma, at RM 448.2.

(5) Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.

(6) Atlantic Intracoastal Waterway: Two inland water routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albermarle and Chesapeake Canal and Great Dismal Swamp Canal routes.

(7) Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374–411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).

(8) Columbia River (Columbia-Snake Rivers Inland Waterways): From The Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330. Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho.

(9) Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.

(10) Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.

(11) Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.

(12) Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago Harbor at Lake Michigan, approximately RM 350.

(13) Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.

(14) Kaskaskia River: From junction with the Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.

(15) Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.

(16) Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.

(17) Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.

(18) Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.

(19) Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.

(20) Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.

(21) Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.

(22) Pearl River: From junction of West Pearl River with the Rigolets at RM 0 to Bogalusa, Louisiana, RM 58.

(23) Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

(24) Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.

(25) White River: From RM 9.8 to RM 255 at Newport, Arkansas.

(26) Willamette River: From RM 21 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

TITLE III—PROCEEDS FROM BINGO GAMES

26 USC 513. Sec. 301. (a) Section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(f) Certain Bingo Games.—

Definitions. "(1) In general.—The term 'unrelated trade or business' does not include any trade or business which consists of conducting bingo games.

"(2) Bingo game defined.—For purposes of paragraph (1), the term 'bingo game' means any game of bingo—

"(A) of a type in which usually—

"(i) the wagers are placed,

"(ii) the winners are determined, and

"(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game,

"(B) the conducting of which is not an activity ordinarily carried out on a commercial basis, and

"(C) the conducting of which does not violate any State or local law."

26 USC 513 note. (b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

26 USC 527. Sec. 302. (a) Paragraph (3) of section 527(c) of the Internal Revenue Code of 1954 (defining exempt function income) is amended by striking out "or" at the end of subparagraph (B), by adding "or" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

Supra. "(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),".

(b)(1) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1974, except that notwithstanding any other provision of law to the contrary, no amounts held at the date of enactment of this bill by an organization described in section 527(e)(1) of the Internal Revenue Code of 1954 in escrow, in separate accounts for the payment of Federal taxes, or in any other fund which are proceeds described in section 527(c)(3)(D) of such Code may be used, directly or indirectly, to make a contribution or expenditure (as defined in section 301 (e) and (f) of the Federal Election Campaign Act of 1971; 2 U.S.C. 431(f)) in connection with any election held before January 1, 1979.

26 USC 527 note.

26 USC 527.

(2) Such amounts as described in (1) above shall not be considered as security or collateral for any loan by any State or national bank or any other person or organization.

Approved October 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1608 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 124 (1978):
    Sept. 25, considered and passed House.
    Oct. 10, considered and passed Senate, amended.
    Oct. 13, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:
    Oct. 21, Presidential statement.

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